ALFRED E. SMITH

HENRY MOSKOWITZ

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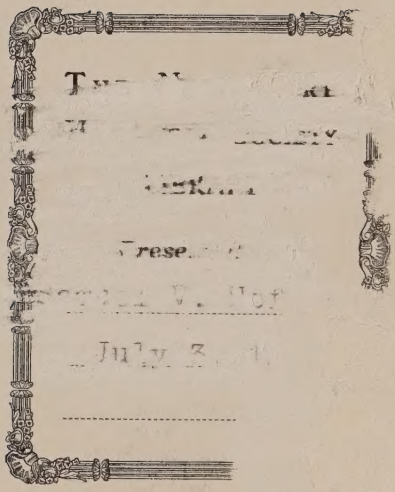
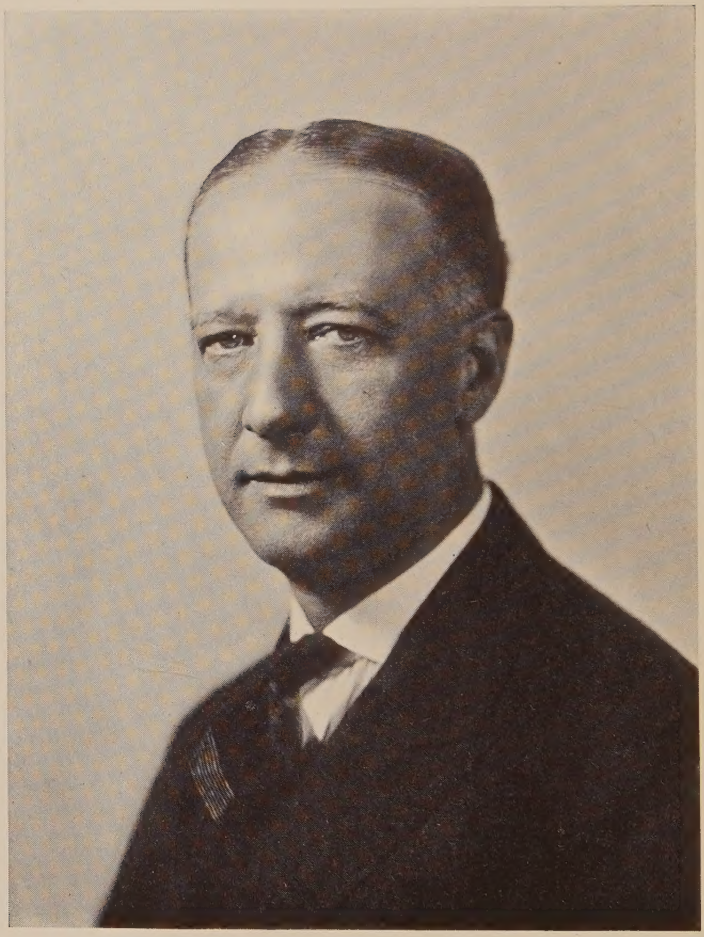


ALFRED E. SMITH

An American Career



Governor Alfred E. Smith

ALFRED E. SMITH

An American Career

BY

HENRY MOSKOWITZ

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TO
MY WIFE

PREFACE

It has become quite fashionable in recent years for some intellectuals to question the validity of the American theory of government. Lovers of America, the classic example of democracy, should meet this challenge.

Dictatorships have sprung up in Europe which are symptomatic of an impatience with the deliberate process of parliamentary government as an efficient tool of the state to carry out policies necessary for critical situations.

Can democracy meet the test of states confronting a crisis? Can it be made the instrument for realizing the aspirations of the common man conscious of a new status? Can it do justice to the farmer, the laborer, the brain-worker and the business interests caught in the chaos of post-war conditions?

Realizing the deep issue raised in this challenge to democracy by minority government, I have set forth in this book the record of a man with whom the rule of the majority has been the cardinal unit of his political faith. He typifies the kind of leadership developed in a republic born of the Declaration of Independence and the Constitution of the United States. He is essentially the product of the opportunities afforded by our American institutions.

The book is the outcome of personal contact, a study of private sources of information and public records and documents.

If it will help to strengthen one man's faith in democracy as an instrument for bringing a better day to those whom Governor Smith loves to call the "rank and file of the people," this story of an American career will not have been told in vain.

In its preparation, the stimulus and criticism of one is greatly acknowledged—my wife.

HENRY MOSKOWITZ.

New York, May, 1924.

PUBLISHER'S NOTE

While this book was in press Mr. Smith's mother, to whom reference in this book is made, died—on May 18, 1924.

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ALFRED E. SMITH

An American Career

CHAPTER I

Boyhood

There is in existence an old Wells-Fargo receipt book into which Alfred E. Smith, when a young man, neatly pasted all sorts of records—programs of entertainments and plays in which he took part as monologist or actor, the program of of the closing exercises of his school, clippings from newspapers telling of his exploits as a bicyclist or containing humorous references to him as a member of the Seymour Club. There is one newspaper item in which he is jibed at for having political aspirations in his ward. But these aspirations, even had they not been justified by his later life, receive sanction from the youth's interest in high affairs as shown by the other clippings in the book. Pasted in it are John Hays' speech on the death of McKinley, Grover Cleveland's and Bourke Cockran's addresses, Bryan's famous Cross of Gold speech, and many other orations culled from the newspapers.

To turn the pages of this fat, close-leaved volume, completely covered with records, is to relive a whole period of a life that fairly glows with vitality. You see before you an eager, vivid, vivacious, alert, gifted young man of the people, who enlivened his neighborhood by his spirits and good humor, his zest, his interest in the people, animals and things about him, who lived a life of animated activity, who went ahead gaily to great things, in spite of straitened economic

circumstances, hard labor and heavy responsibilities thrust upon him early in life.

If the reader could glance over the old Wells-Fargo receipt-scrap book, this first chapter, save for statements of birth and parentage, would be almost superfluous. It gives a picture of the young man up to marriage, so complete, revealing, interesting and amusing that words would scarcely be needed to supplement it.

Almost under the Brooklyn Bridge on its Manhattan side, in an old tenement at 174 South Street, on December 30, 1873, a boy was born to two simple people of American birth—Catherine Mulvihill and Alfred Emanuel Smith. They named him after his father. Later came his sister Mary. There were no other children.

South Street was a river-front thoroughfare from which the little boy saw the masts of sailing schooners, and watched freighters, tramps and other work-horses of the sea come laden with the wealth of distant lands and pour it upon the wharves that teemed with life and movement when the ships came in.

Below Brooklyn Bridge, wrapped in the mantle of the night, is the dark blue sheet of the East River, sparkling with the flickering lights of moving ferry-boats and other river craft. On both sides, the City of New York unfolds its myriads of lighted windows in those colossal office buildings that form the unique sky line which thrills the home-coming traveler or the visitor who enters the harbor for the first time.

Looking down from that bridge in a southeasterly direction one can see a wilderness of tenements forming chasms of brick and mortar. These shelter the people of the congested East Side of New York City.

The father of Alfred E. Smith was a truckman—a man the muscles of whose arms had been hardened by the kind of severe labor that lines the face and moistens it with the sweat of the brow. This truckman guided a pair of heavy horses through the mazes of the city, which then knew neither the automobile nor the motor truck. He was born on Water Street near Oliver in the eighteen forties. His wife saw the light in a corner store on Dover and Water Streets in 1850. They were childhood sweethearts in the neighborhood and they married in 1871.

One of the events of the day in the life of little "Al," when first he grew aware of the kind of world in which his lot had been cast, was his father's return from a hard day's driving, still grimy with the dust of neglected streets, still wet with the perspiration that seemed the mark of his calling. The little boy watched his father peel off garment after garment. "Why do you do it?" the boy asked, and Governor Smith still remembers his father's answer—"To cool off."

The elder Smith would plunge his head and arms into cold water with a delight that bore out his statement. He was large, stalwart, with the constitution of iron, the full, rich voice, the physical endurance, which, taken together, comprise the inheritance of his son.

The association between father and son was not so intimate as it might have been, on account of the round of toil in which the elder Smith was immersed. He was always up and out at work by six o'clock in the morning. Sometimes he would not come home until dusk, when the little boy was already in bed; and it was only on Sundays and holidays that he had an opportunity for intimacy with his wife and children. Every little episode connected with him became an event in the boy's life. He still recalls the walk they took together one winter's day completely across the East River, which by some miracle was all frozen over.

The father led his little son across the ice by the hand. He —the father—wore no overcoat because he never needed it. He was warm-blooded enough to keep out the winter's chill.

Al's life as a child born on the river-front in the City of New York of those days was never dull. Scarely had he donned his first pair of trousers, made by his mother from a discarded garment of his father's, when he went to play about the wharves. In the summer, to be sure, trousers were often superfluous; he could jump off the docks in tights, and soon became what the longshoremen of the region called a water-rat. Many a swim did he enjoy in the East River with other water-rats of his age. They learned to dive and swim so long beneath the surface that an onlooker would have thought they'd never come up again. Smith and the other boys would also play tag among the piles of lumber and the pyramids of boxes and crates, dodging in and about among heavy horses and heavier trucks, until, tired out, they'd sit and rest on the roof of a shed and watch the longshoremen hoist gigantic crates or lower them into the holds of ships.

"The Brooklyn Bridge and I grew up together," Governor Smith told a friend once. "It attracted my infantile attention and I spent a lot of time sort of superintending the job in my boyhood. I have never lost the sense of admiration and envy I felt for the men who swarmed like flies stringing the cables and putting in the roadways as the bridge took shape. Ten years after I was born and nine years after the New York tower was finished, they opened the bridge.

"I recall the intense excitement down in our part of town when word came that many people had been killed in a crush on the structure.

"That was on May 30, 1883—Decoration Day. The bridge had been formally opened a few days before and my father and mother and sister and I were among the first to

cross over to Brooklyn on the bridge and come back by the Fulton Street Ferry.

"Late in the afternoon of Decoration Day there was an immense crowd on the bridge crossing in both directions. My recollection is that somebody in the crowd at the New York end yelled that the bridge was falling. There was a rush for the New York end. This rush, meeting a great throng coming from Park Row, produced a jam in which about eighteen or twenty people were trampled to death.

"A gang of us boys from down the water-front hurried to Park Row when we heard of the accident. It was growing dark. We got as close to the centre of things as the police would let us. They were taking away bodies of wounded people and policemen were piling up great quantities of hats and clothing that had been torn from the victims.

"That was my first view of a great calamity. I didn't sleep well for nights."

Perhaps the most thrilling of the day's delights was afforded by the fire-engine horses. A horse, swift, sturdy, sure-footed, was a heroic figure to the boy; he made up his mind to be a fireman—after some consideration of the career of a letter-carrier. The gong at the fire-station would rouse him from the soundest sleep or interrupt the most absorbed contemplation of the craft along the river, and send him speeding to the fire-house, with his shoes in one hand and his hat in the other. Much to his regret he was never permitted to help harness the steeds, though he could have done the whole thing alone, by his eighth year having studied the process a hundred times and memorized every detail of it.

Little Al—he was known as Al from the first moment he knew enough to tell anyone his name—seldom failed to reach the firehouse in time to see the men glide down the polished brass poles from their loft to the level of the street. It was the house of Engine Company 32 on John Sreet, near the

corner of Platt. John Binns, the veteran Deputy Chief of the Fire Department, was then its virile young captain, a tremendous personage in the eyes of the boy, who actually scraped acquaintance with him and followed his figure, conspicuous in long white coat and straight helmet, in the many, many alarms to which Binns and his company had to respond.

The child would make futile efforts to dash afoot in the wake of horses and firemen as they sped in a whirl with clang of bell and thud of hoof. And he never lost sight of them; he learned to track the fire-engines to the remotest alleys and side streets, where for hours at a time he would watch the progress of the fight with the flames. It was with reluctance that he would come home to a dinner that was sometimes cold; for he was a born "buff" and his father thought it wise to humor his inclination.

To this very day Alfred Smith responds eagerly to the stimulus of a fire-alarm, and as a young man was among the best-known buffs of the great city's Fire Department. He distinguished himself among those of the citizens who have the privilege of passing through the fire lines to help in the work of subduing the flames. He has manipulated lines of hose, climbed ladders and in his eagerness stood on the very edge of an imperilled roof—the survival of an instinct that was keen when the child had scarcely realized the function of a fire-engine.

It is easy to understand how the boy came to have privileges at the fire-engine house usually denied the average hungry-eyed lads who shared the same dreams—how it was that he became the favorite of Engine Company 32. He had—and still has—social gifts. He was bright, talkative, could sing and dance and had that resonant voice which in later years shook the rafters of the assembly hall and the public meeting place. Also he had ready-made opinions then, which he expressed with a fluency that experience and maturity have taught him to repress.

So the boy became a buff. When he heard the stroke of the fire-alarm, he would make for the coffee can and the sandwich basket kept near the entrance; and when horses, men and engines had darted out of the doors, he was the one to close them. Then he and the fire dog together—he carrying the coffee can and the sandwich basket—would dash to the place where the fire was. He had learned to locate it by the number of rings of the bell.

If it was a false alarm, or if the fire were slight, he would return with the firemen on the engine, the envy of his boy friends. How proudly he leaped from the engine and opened the fire-house door! If the fire was serious, he would go to the restaurants, where he was known by this time, and get coffee and sandwiches for the men.

He was more scrupulous than a Dutch housewife in keeping the can brilliantly polished, in fact, in keeping all his utensils shipshape. When his work was done—a man's—the lad would go home to delight the family with the tale of the day's doings.

In later years, when he became one of the real buffs, and an honorary member of the Officers' Association, he never lost his love for the fire department. At a dinner given to Honorary Fire Chief Robert H. Mainzer on January 18, 1916, he recalled, to the delight of the five hundred diners present, his own career as a buff and more particularly his experiences when he was a very little boy.

The neighborhood in which the boy lived was at one time the aristocratic section of New York City. Survivals of this glorious past are still seen in some of the few remaining colonial houses, homes of leading families in fact. The doors reflect the purity of the colonial style in architecture and retain the distinctive brass knockers. They are fast disappearing to give way to tenements—five and six story boxes of red brick and mortar—housing hundreds where these small old houses sheltered tens.

The tradition of "Al" lingers in the thoroughfares he haunted when he was a child. He is described as a slim, somewhat athletic figure, fleet of foot, disposed to take off his shoes and stockings and carry them in his hand on hot summer days, his head surmounted by a shock of tawny hair and his lips forever parted in a smile that revealed firmly set teeth. The steely gray eyes flashed as he talked in a quick and loud but melodious accent. His shirts were made for him by his mother, who also, with her own hands, made the first complete suit of boy's clothes he ever put on. Anyone coming in contact with him then would have been struck by the qualities of a voice and the lovable traits of a personality that triumphed over an environment which might have extinguished a nature less gracious or less gifted with a sense of humor. Alfred Smith was what is known as a laughing baby; he went through his East Side boyhood gaily. Nimble of wit, highly articulate, in the sense that he could express his ideas with facility, he had no self-consciousness at all. Indeed, his elocutionary gift revealed itself even in those early days, and it was easy to foresee that in whatever sphere his lot might be cast, his powers of address would prove a factor in his career.

As he had, in addition, the gift of a retentive memory, it seems quite natural that he should have taken to elocution. He loved to recite famous orations, sometimes to an audience of the boys and girls of the neighborhood, sometimes to assemblages of his elders at school. He thus became a distinguished pupil at St. James' School, which is not far from the South Street house where he was born and which he attended with reasonable assiduity.

Yet it will have to be conceded that he was by no means an intellectual prodigy, nor a strict student though proficient in debates because he mastered his subjects and had a power-

ful voice. Whether it was his voice or his eloquence, the fact remains that he treasures to this day a silver medal awarded him in a spirited contest between two sets of oratorical champions. To reach the place where the debate was held he had to go farther from his home than he had ever been before—quite to the west side of Harlem. The unprecedented period of two hours was spent on the street cars, then drawn by horses. It was his first extensive view of the city that he was to come to know as well as a man knows his own pocket.

Not that he had not already been started in the training of a typical Fourth Ward boy of those days; before he was ten he became a newsboy—a matter of necessity, as his father's earnings were never large. In that household twelve dollars was a great sum and not even a cent was lightly given to the children for a stick of candy. It was with about twenty cents in cash that Al was set up in business as a newsboy. He would sell one batch of papers and use his profits to buy more newspapers; then come home in the evening with whatever he had made.

His earnings, small as they seemed, were really urgently needed. There was a mother and there was a growing sister to support, and the health of the father had begun to fail. When Al was less than thirteen years old, he died. The boy had to leave school and go to work.

Alfred Smith took up his new duties with his characteristic gaiety. The father had left a good name to his son and even the nucleus of what might be called a trucking business. There were horses to manage, creatures that Al was quite competent to deal with. And he could deal with customers as well. Nor was he long in ascertaining that other lines afforded better financial prospects than trucking. There was a thriving fish stall in Fulton Market at the water-front and it seemed a stroke of good fortune to him when he was

offered the post of helper by the man who owned the business.

After seven years as a fishmonger, during which he earned a living for himself and a dependent mother and sister, he was offered another position at better pay and accepted it. A strong, wiry youth by this time, he was ready for any kind of work at which he could make a living, and for weeks toiled as a common laborer in a Brooklyn pump-works. He would get up in the morning at six o'clock, eat the breakfast of ham and eggs and coffee that his mother had prepared, and trudge on foot to the ferry. His daily task involved much and severe manual effort and he earned his bread literally by the sweat of his brow. After lunch, a small affair, put up for him in the morning by his mother, he would work for five hours at a stretch in the afternoon.

Never did he lose his brightness of mood and disposition, or his eloquence, imagination and personal magnetism—an inheritance bequeathed him by his father. From his mother, who adored him and whom he in turn deeply loved, he derived his deep spiritual nature, his sterling common sense, and his discerning judgment.

To his histrionic gift he owed the relaxations of this period. He seemed always able then and since to project himself into the personality as well as the experiences of another, to see life from other viewpoints than his own. His gift for recitation and for acting was no mere mimicry. It was an actual living in terms of another's consciousness. The gift served him well then. Night after night he held audiences—never very large perhaps but always enthusiastic—raptly attentive while he told stories, declaimed, assumed character parts and imitated local celebrities. He told a funny story in dialect with inimitable drollery. This gift of expression was exploited in small local halls, often packed to suffocation, and whether his theme was *The Bells* by

Edgar Allan Poe, or *The Night Before Christmas* or even a Shakespearean soliloquy, the young man imparted genuine importance to the printed announcement, "Recitations by Mr. Alfred E. Smith."

It was inevitable that Al should graduate from this school into the field of amateur theatricals. He was given important parts at benefit performances under church auspices. His success was not ascribable to his qualities as an actor alone, but to that genius for the reconciliation of the most antithetical and antagonistic elements upon which his career in politics has been built. Tact, patience, intuition, sympathy, capacity for management of men and for grasp of detail—all these he revealed. Many a catastrophe was averted through his presence of mind when performers forgot their parts in the middle of a play. Nothing disconcerted him—an African temperature, a crowded house, difficulty in drawing up an improvised curtain, the collapse of a bit of scenery—Al Smith could always be depended upon to find a way of meeting the situation. He could be serious on the stage, but he preferred comedy because it strained the politeness of an audience so much less. Moreover, his unusually flexible and powerful voice lent itself with most felicity to the drolleries of burlesque, to the brilliance of his improvisations and to the swiftness of his transformations, some of them executed before a hall full of people.

The ease and lack of self-consciousness in the presence of an audience which characterize Alfred Smith were acquired at this period through his perfect subjection to the discipline of a competent dramatic coach. Yet, even without this training in amateur theatricals, Alfred Smith must have become an orator; he had the voice and the mood of one. That was clear already in these years of his immature young manhood. Nevertheless, it is true that he has never entirely lost a natural timidity when he has to address audiences.

The rehearsals were conducted amid gales of merriment. Smith, in an abundance of youthful spirits, would joke with the fellow-members of the troupe, who would retaliate with practical jokes to make him ridiculous in his most tragic parts. His wig, for example, would suddenly be lifted from the top of his head on an invisible string.

His audiences were often typical of the neighborhood, especially when a popular comedy made the attraction. The basement of the parish house, sometimes dimly lighted with the aid of old-fashioned lamps, its benches packed with eager boys, who overflowed on to the window-sills and all but hung from the beams and rafters, did not overwhelm the young actor. On the contrary, it gave him his first lessons in the establishment of intimacy with his audience and formed the essential characteristic of his public manner to this day. This intimacy of effect became the note of his personality, the very quality of his finest oratory. He seemed never out of touch, never remote. The young people all about him in the parish house rocked with the laughter he aroused or grew serious with the mood he created and sustained. He got to know his community no less perfectly than Daniel Webster knew his Massachusetts. Moreover, he acquired expertness as a critic of the drama, retentiveness of memory that never fails him and responsiveness to the emotions and sympathies of people in the mass. No man in public life equals him, perhaps, in sensing the disposition of a crowd and in the ability to win them over.

Long after he had become sheriff of the City and County of New York this fondness for the theatricals of his youth lured him back to the scenes of his dramatic triumphs. He was one of the stars among the troupe known as the "St. James Players." The little company performed in many a parish house. His farewell performance was perhaps that celebrated production of *The Shaugraun,* in which state

senators, city aldermen, even a judge on the bench, played parts, with a competence justifying the boast on the program that this was a finished performance by an all-star cast—and one of the stars, as the program which has been preserved shows, was Mr. Alfred E. Smith.

CHAPTER II

Courtship and Marriage

Long before Smith attained manhood, while still an adolescent lad, he fell in love.

Katherine Dunn was a dark-haired, bright-eyed, willowy girl, cheerful and gracious, but reserved in manner. She was born in the same part of New York as he, and he was a frequent visitor to the home of her family, who were also poor people but had succeeded in giving their daughter a much better education than he had received. She could sing, play the piano, make her own dresses and—cook, helping her mother in the kitchen so competently that young Alfred had eaten many a cake of her baking before he suspected that it was not her mother's.

Alfred soon told Katherine of his love, but it was a long time before he dared to speak of it to her family. They did not altogether approve of his attentions, though his character and abilities were above the average. The trouble was that his prospects did not seem brilliant and he had a mother and a sister to provide for. Probably in order to withdraw Katherine to a distance from him, the Dunns moved far away—all the way to the Bronx.

In those days—the last decade of the nineteenth century—the distance between South Street and the Bronx was, in terms of transportation, tremendous. There was no subway; there was no direct route by trolley or horse car. Alfred had to walk to the nearest station of the "L," or, rather,

to a Third Avenue station, as the Second Avenue line afforded no facilities. When he got to Harlem he took a street car the rest of the way, or he walked—usually the latter.

By this time he was making what was then considered good money—as much as twenty-five dollars a week—and he wore fine clothes on his visits to Katherine, a derby hat, a cutaway coat, the striped trousers of the period, a "stand-up" collar, a four-in-hand tie and black shoes. The now familiar russet was not yet in vogue for a Sunday.

Even in his best toggery, Alfred, it must be confessed, made no marked impression of prosperity. It seemed unthinkable that he would ever be in a position to support Katherine Dunn in the style to which she had been accustomed. Her dresses were more numerous and finer than any he had ever seen, and she was the belle of many a ball. Besides which she sang—as he himself was the first to concede—divinely. To make matters more difficult, his reputation as an elocutionist actually stood in his way; the Dunns declared that their child must never marry an actor. Fortunately, as he himself has proudly affirmed, he was able to prove that he was no actor, despite the applause his audiences had showered upon him in *Hazel Kirke*. As for his prospects, they were steadily improving; the pay envelope he gave his mother every week yielded a sufficient margin for his trips to the Bronx and an occasional bouquet of flowers, or even a box of candy. There were no movies then. Social life was more formal. Young girls did not take the initiative in anything. But there were dances at home in the evenings and there were full-dress occasions under the auspices of club or church or clan.

Nor was life in any sense difficult for young Smith. The war with Spain was over by this time and prosperity had fully returned after the panic that had ushered in the Chi-

cago exposition some years before. Food was plentiful, of the best quality and cheap. There was no housing crisis. In fact, the region of the Bronx and Harlem was overstocked with flats, apartments and houses. It was a simple matter for a young couple to get two, or even three, months rent free from a landlord overeager for tenants while his property was standing vacant. Clothing was inexpensive, even if not of the best quality.

In time, too, Al was becoming endeared to the people who moved in the Dunn circle, and by and by it became a well-understood fact that Katherine and he would marry.

There were embarrassments—cruel ones sometimes, humorous ones other times. Once there was to be a grand dance in a big Harlem hall, and he had planned to take Katherine. As was the custom in those days when none but millionaires owned dress-suits, Alfred hired his. He got it from a Jewish tailor in his neighborhood for two dollars, and carried it in a box all the way to Katherine's home in the Bronx, where he was to make the necessary change of clothing. When he put the suit on in the privacy of her brother's room, he found to his horror that while the coat and waistcoat fitted, the trousers would never do. He was fairly tall and quite slim; the trousers had obviously been made for a short, stout man. It was impossible to make the long trip to the southernmost end of New York and be back at Katherine's house in time! Fortunately, Katherine's brother was of Al's build and had a pair of dark blue trousers which he loaned him. And Al, garbed in elegant dress coat and waistcoat above the every-day blue trousers, danced again and again with Katherine. To use Governor Smith's own phrase in relating this incident, "I got away with it."

If the courtship had its humorous side it was sometimes attended with despair. There were moments when Al wondered if he might not lose his prize, if someone more for-

tunate than himself might not gain the powerful support of the young lady's family.

Altogether it was not an easy time. As he rode home in the "L" train late at night, he would try to sleep all the way so as to be the fresher for his hard work in the morning. What if the big umbrella, a prized possession, were stolen while he slept? The mere thought kept him awake until once he hit upon the plan of tying it to a button of his coat. That would keep him from forgetting the umbrella, too. One rainy evening his scheme was put to the test. The "L" train was drawing near Chatham Square station, where he got off, and he was still sound asleep. A gay party of his friends had boarded the train some time before. One of them decided to play a joke on Al and take his gigantic umbrella. A pull on the umbrella, the string resisted, and Al woke up. The scheme was frustrated.

Had it not been for the youth, the vigor of constitution and the incorrigible optimism with which he faced the world, Smith might not have emerged so happily from the ordeal of his courtship. Sometimes he would not get to bed until two o'clock in the morning from one of those long expeditions to the Bronx. And he had to be up and at work by seven! It was the devotion of a fond mother that smoothed his path for him. She called him in the morning. She saw to his meals and his washing and his room. She gave him her perfect sympathy in his first and only love affair.

The course of his true love, though it did not run smooth, reached its goal on May 6, 1900—the wedding day of Katherine Dunn and Alfred E. Smith.

CHAPTER III

A Family Man

Alfred and Katherine Smith have five children.

The oldest, Alfred Emanuel Smith, Jr., is a slim young man, a promising law student. His geniality, his modesty, his simplicity, are traits strongly reminiscent of his father as a youth.

Next to young Alfred comes Emily, a girl of vivacious disposition, much like her father, in appearance the living image of her mother when she first received her husband's attentions. Then comes Catherine, who received her grandmother's name and is much like her in temperament. Next come Arthur and Walter, bright, healthy boys of a normal American type. The first two children were born on the third floor of a tenement in Madison street. Here the Smith family lived in a small flat. The third child was born in an apartment on Peck Slip and the remaining two in the Oliver street house. The children were all born in an area less than a quarter of a mile square—the same region in which their parents and their grandparents had been born. Indeed, the Smith family have been associated with this oldest portion of New York City for more than a century.

Alfred Smith has been a comrade to his children. They have grown up with him as he has grown with them. He has carried every one of them in his arms through the streets of New York; he has wheeled each of them in a baby coach; he has romped with all five of them in a public park. He swims and golfs and plays with them to-day.

It is no easy matter, as many a parent knows, to establish and maintain a bond of friendship with one's children. This was made easy for Alfred Smith by his fortunate possession of an irrepressible sense of humor and an infectious gaiety, which attracts his children to him as it does most people who come in contact with him.

As his finances improved, he was able to move with his young wife and their two babies into a small house of brick and stone, where the children one after the other came to know their father's world.

The family's living was simple. There were never in those days any servants. Mrs. Smith saw with a wary eye to the grocery bill and the butcher's bill. The fare was ample but plain except for the pies and the ice cream, to which Smith is partial.

It is Smith's unfailing good spirits that give the tone to his household. If the Governor resembles his father, the truckman, in being patient in labor, resolute in danger, and firm in distress, he manifests the qualities of his mother in being judicious, simple and wholesome. For the qualities of sheer joy and humor, controlled by unfailing consideration for the feelings of others, he is unrivalled; and those who derive the most benefit from this quality are his own boys and girls. They have been precipitated into gales of laughter by tales of his adventures as a boy along the river-front; they have revelled in his ancedotes of all sorts and conditions of men and in stories from his reading, which is surprisingly wide, considering his lack of early educational opportunities. Moreover, he has such a marvellous memory that if he has ever heard a tale he never forgets it.

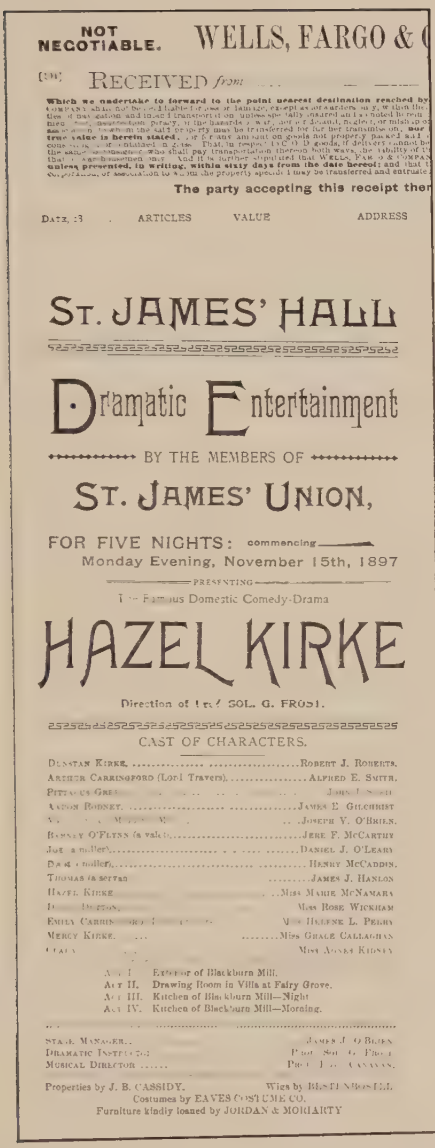
Children love a person with the sort of manners he has, especially if he also has the perfect good health and the social gifts of Alfred Smith—humor, sarcasm, poetry, gesture and

voice. He can hold spellbound not merely a family circle but a parlor filled with visitors.

The Smith home has never attained the stage at which the parlor gives place to the drawing-room. On the walls in the New York City home hangs the traditional portrait of the head of the family surrounded by wife and children, the portrait of the mother, an old tintype of the truckman grandfather. To these, in recent years, have been added a player-piano, a phonograph, and the radio set of the youngest sons. The large front parlor is thus a typical New York house interior. The dining-room is in the front of the basement, the kitchen at the back. The living-room upstairs is where the family gathers at night. The Governor's going to Albany interrupted this existence but did not alter its essential character; and it was the life that was resumed when he left Albany after his first term; it is the life that will be resumed when he leaves public office.

With this love of family life and its fun and laughter goes also a passion for animals which the Governor retains from his boyhood days and which his children indulge in every possible way. There was never a time in his life when he did not own a dog. His wife early observed his passion for pets and encouraged him in it. When his children were old enough, he bought a pair of goats and a carriage for the goats to draw. For the boys alone, when they grew older and he could afford it, he bought a pony. Everyone who knew him also knew his great Dane, Cæsar, his inseparable companion in Albany as it had been in New York. One of the features of the executive mansion is the Governor's menagerie of dogs, horses, monkeys—three of these—a raccoon, a fox, and even an alligator. Nor does this exhaust the list.

Perhaps no part of the domestic establishment of the Governor of New York at Albany interests him more than the stables, his customary visits to which he never misses.



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Direction of Mr. SOL. G. FROST.

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ARTHUR CARRINGFORD (Lord Travers),	ALFRED E. SMITH.
PITTACUS GREY,	JOHN J. [illegible]
AARON RODNEY,	JAMES E. GILCHRIST
[illegible]	JOSEPH V. O'BRIEN.
BARNEY O'FLYNN (a valet),	JERE F. MCCARTHY
JOE [illegible] (a miller),	DANIEL J. O'LEARY
DAVE [illegible] (a miller),	HENRY MCCARDIN.
THOMAS (a servant	JAMES J. HANLON
HAZEL KIRKE,	MISS MAMIE MCNAMARA
[illegible] DUNCAN,	MISS ROSE WICKHAM
EMILY CARRINGFORD,	MISS HELENE L. PERRY
MERCY KIRKE,	MISS GRACE CALLAGHAN
[illegible]	MISS AGNES KINSEY

ACT I. Exterior of Blackburn Mill.
ACT II. Drawing Room in Villa at Fairy Grove.
ACT III. Kitchen of Blackburn Mill—Night
ACT IV. Kitchen of Blackburn Mill—Morning.

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ONE OF THE GREATEST OF HIS THEATRICAL TRIUMPHS

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On one occasion, dropping into the place with a friend from New York, the Governor patted the ponies, called them by name, and received from each the recognition that a horse always gives to one it knows as a friend. Then the Governor's eye chanced to scan the floor. It had not been cleaned. He picked up a shovel and set to work. "I come by this job honestly," he explained. "My father was a truckman."

The greatest of all days in the calendar of the Smith family is Sunday. It is reserved for church and the Governor's white-haired mother. Although she is approaching her seventy-third year, she retains her alert mentality and a keen interest in all the things going on around her, just as in the old days on South street. Nothing short of an earthquake could interfere with the weekly visit that the Governor pays to his old mother. She often comes to the executive mansion at Albany—the little old lady before whom the great executive still kneels to receive her blessing on certain impressive occasions.

Once Bourke Cockran had an appointment with the Governor and came somewhat ahead of time. Soon the Governor entered, but did not observe the waiting visitor; he had eyes only for his mother, who was seated in an armchair. Just as he had done when a boy, he went over and knelt beside that armchair.

This boyishness with his family is the secret of his happiness in his home. Now and then, when completely relaxed, he recalls the days of his renown as an elocutionary artist in amateur theatricals. He may then recite some absurdity like "Hans Breitmann giff a pardy—Where ees dot pardy now?" His supreme drollery is a recitation of *Old Grimes is Dead,* which he once deliberately inflicted upon a person who would not believe that he could recite it from memory. He has even recited Poe's *Bells* to his children. His knowledge of the history of the stage is so complete that he can give in a few words the gist of the life story of any actress of renown

as well as a sound judgment of the genius of any celebrated actor.

He has used his wonderful memory to especially good purpose in acquiring a thorough knowledge of the Bible. There was a huge family Bible in the old home of his parents on South street, and the future Governor was familiar with its contents even before he was ever sent to Sunday School. By the time he was seven he had mastered the whole of Genesis and the other books of Moses. The interest in the Bible he has preserved to this day. The Book of Job is a favorite of his; in the New Testament he is said to prefer the Gospel of Luke. His secular reading has been quite extensive outside of the vast masses of matter, like legislative reports and newly enacted statutes, which he devours and digests. He is still old-fashioned enough to prefer Shakespeare to all other dramatists. In the contemporary theatre, he has been overheard to say, there seems insufficient scope for actor or actress. The art of acting is not as well understood as it was. He likes performances of plays dealing with life among people of the plainer sort with a decided human interest and a sufficient dash of sentiment.

His views on such topics as literature and the theatre are seldom or never expressed except in the course of conversation in the intimacy of private life. This is why so few people in recent years are aware of how comprehensive is the taste he has acquired for other arts than those of the theatre. When he is among old friends or with his wife and children, he tells his wittiest stories and recalls his happiest memories, for socially he is a family man who has made the executive mansion at Albany the hospitable home of rather simple but warm-hearted folks, echoing the voices of children as well as their elders. In fact, it would be misleading to convey the idea that he is scintillating or brilliant or inspired, when the essential characteristics of his mind and personality are plainness and simplicity.

CHAPTER IV

Politics in the Fourth Ward of New York City

Before he quite realized it, young Smith was a rising figure in what is so vaguely called by the name of politics.

The theoretical politics of the college graduate is as the poles asunder from the practical politics of Smith. Before he had been a married man three years he had emphasized to him what he only dimly realized when he was reciting and toiling and courting—the fact that the gregarious instincts of men are the same, whether they live in the open spaces or in the cramped quarters of a crowded city. Countrymen folk gather at the general store, where they swap stories and talk politics. In the congested neighborhood of a big city, men gather not in one but in many stores, sometimes on street corners, sometimes in saloons when they existed, and sometimes in the clubs, where they too swap stories and talk politics.

He was now a husband and father but this did not interfere with his perception of the truth that the political club is a man's social center. It is also a community institution. It helps to meet the needs of the people in the district naturally. There is no conscious philosophy of service or pose about its activities. It is just neighborliness which is translated on Election Day into votes and majorities.

These results, however, are brought about by no mere dilletante interest in the political game. The district leader is often its slave from morning till midnight. It is a three

hundred and sixty-five day in the year job. No exertion is too great to make, no favor too insignificnt to do for the people. The duties of a political leader are as varied as the complicated needs of a crowded city neighborhood.

A political leader's success is due in some measure to the perfection of his organization with its election district captains and sub-captains. It comes chiefly, however, from the human touch, the human relationship behind it.

Smith divined these things with the sureness of his instinct for all that is human. Politics might be a game but it was human. Such a human game was played by Tom Foley, the Democratic leader of the district in which young Smith was living. Foley takes to the political game just because he loves people. Though a man of most generous impulses, he is a martinet in his demands upon his lieutenants to be at the club and do their chores for the home folks. They were called "contracts" in the parlance of the district. That word accurately describes the spirit in which the work was done. When a "bit" was assigned, it carried with it all the obligations of a contract. Politics as Foley played it was an exacting game. No member of his organization, if he held public office, be it high or low, was ever allowed to keep out of touch with his constituents. A "swelled head" was soon contracted to its normal proportions, or the glory of holding public office was short-lived.

Every night Foley could be seen at the club house. He exacted less from his lieutenants than from himself. The Congressman as well as the Alderman, and the Assemblyman, had his contracts to carry out.

It was a political school which nurtured some virile virtues. Loyalty was one of them, and keeping a promise sacred was another.

A boy with Smith's antecedents living on the lower East Side of New York, came naturally to Democratic politics.

He joined the Club and got the severe training of this school of politics. Then he learned the importance of team work in an organization. He learned loyalty, modesty, and service. He also learned to hate the yellow streak.

His first public job was in the office of the Commissioner of Jurors serving jury notices. Like his leader, on stated evenings he was at the club house meeting the people. With them he was popular from the first.

In the twenty-three years of Foley's leadership the racial character of the neighborhood changed with the shifting tides of immigration. In the early days of his political activity, the population of the district was almost wholly Irish who, as life's struggles brought material success, moved out and gave way to the Russian Jews. Many of these moved away as they made their way under American opportunities, and gave place to the later immigrants, the Italians. These again were followed by a succeeding immigrant race group, the Greeks. In fact, this particular neighborhood has more nationalities than any spot in the cosmopolitan city, as it partly borders on the water front; but throughout these racial changes in the neighborhood, Foley's leadership was never shaken. He remains the master of the situation, and his district can always be counted on to supply its huge Democratic pluralities. Even during the Harding landslide, when New York City, normally Democratic, went Republican for the presidency, Foley's district gave James M. Cox its huge normal Democratic plurality.

Campaigning in such a neighborhood, with its motley of races, was no holiday experience. Men fought hard and fiercely at times. Feuds sometimes occurred among the leaders, which ended as feuds generally do, in brawls and even bloodshed.

When his assemblyman got the "swelled head" and absented himself too frequently from the Club and kept away

from his constituents, Foley looked for a young man to take his place. Henry Campbell, a respected merchant of the neighborhood and an influential adviser of the leader, suggested Al Smith, whose personality, wit and mixing qualities indicated to this shrewd judge of men that he had the making of a successful assemblyman. When Smith was nominated and elected for the Assembly in 1903, Foley's advice to his young Assemblyman was brief and to the point: "Never make a promise unless you keep it, and always speak the truth."

It epitomized Foley's code of political honor. It constituted in his view, the moral asset of a practical politician and a statesman. It was his only capital and his credit.

In the career which he later made, Smith kept the code. For it was never said of him that he broke a promise or knowingly made a misstatement.

CHAPTER V

The Springs of His Personality

Smith was no youthful prodigy. His growth and development were slow. His personality was made by increasing responsibility. Perhaps no one in the neighborhood where he was so well known had the remotest suspicion of the unfoldment of the career now in its first stages. He was crude, doubtless, even callow. Had he attended college, he would have been dubbed sophomoric. But he was earnest and sincere. There were inexhaustible reserves in his nature. He somehow quarried his powers out of the depths of his being.

He was endowed with a retentive memory and a capacity for plodding work. But his achievements came through effort. His qualities have the solidity of slow birth. He has none of that quick flashing brilliancy of mind we associate with Roosevelt. He resembles him in his power to assimilate what he hears. Much of Smith's knowledge has come through his ears. He has the same capacity that Roosevelt displayed for forming sound conclusions after hearing arguments from varying points of view.

Roosevelt had a social intelligence. He needed the clash of men's minds to stimulate his own. Smith thrives under the same stimulus, except that he has more of a capacity to brood.

Stability characterizes his mental and moral qualities. He is not mercurial, and though in his public career he has had

occasion to show uncommon moral courage, he is never impulsive. An eloquent listener, he can, when necessary, be silent under great provocation.

He is not a student of literature like Roosevelt. Legislation and public documents furnish him with all the intellectual and heart interest of the best literature. A young girl at a summer school once asked him if he had ever read a certain book. Smith sized her up as a poseuse. "My dear young lady," he said, "the only book I ever read through was 'The Life and Battles of John L. Sullivan.'" That was a poetical exaggeration. It contained a grain of truth.

Smith has style. He has a literary sense for the right word. He has a gift of creative phrase-making which has made him a deadly campaigner.

The search for the springs of a personality is fascinating just because in his case it is so baffling and so elusive. Encountering an individual of his uniqueness one is mystified by the sources of his power.

Men of the Lincoln type, not standardized in a common educational mould, retain a flavor of individuality which is the result of their antecedents as well as their self-effort. They have the tang of the native air. They are racy of the soil.

"If Al Smith had a college education," some have said, "what an intellectual giant he would be!" Perhaps. It is well that he has not been standardized by conventional education nevertheless. He has retained his mental freshness, that clear mind unencumbered by mere vocabulary and mere excess baggage. His mentality is a precise tool for handling the complex problems he has solved as they arose, with common sense and without waste of mental motion. Some of this efficiency can be attributed to mother wit and sound judgment born of the struggle against poverty and adverse circumstances, taught in the "University of Hard Knocks."

The quality of being human is not strained in Al Smith. It is an outstanding characteristic amounting to talent. It was developed by those "contracts" which meant helping the widow bereft of her bread-winner, getting jobs for the jobless, trying to give the weak brother caught in the meshes of the law another chance at self-respect. Out of the tragedies he saw about him, out of the crucible of the pain and joys in the life of poor folk in a big city must have grown his human traits.

The gift of leadership comes not from intellect but from character. The magnetism with which Smith attracts men may be in part a natural endowment, but sustained success in holding them, and eliciting their implicit faith springs from traits which are essentially moral. Smith has the magnetism of a born leader of men. He can make them rise with him in triumph and go down with him in defeat with colors flying. How such qualities of leadership unfolded as situations faced him is a story which can be told only in a brief account of his eventful public career.

CHAPTER VI

The Key to His Public Career

Alfred E. Smith has a genius for public life.

Few men holding public office have been put so drastically to the acid test of character and capacity.

Running for office in a democracy is no rose-colored experience. In the knock-down and drag-out of a political campaign opponents subject a candidate's past to examination for any trace of weakness that may destroy the confidence of the electorate in a man's qualifications.

Smith has been in elective office since 1903 except for the years 1920-1922 when he was defeated for his second term as Governor by the Harding landslide—altogether twenty-one years.

In twelve of these years he served continuously as Assemblyman. He began in 1903. He was acting as majority leader in 1911 during the administration of Governor Dix; he was Speaker of the Assembly in 1913. He served as minority leader in the three sessions of 1912, 1914 and 1915.

Timidly, with hat in hand, Al Smith entered the Assembly in 1903. He was overawed by the dignity of the office. He was sobered above all by the sense of responsibility it entailed.

Later, when already Governor, he said coming from an elevator on his way to the Executive Chamber, "Twelve years ago I stood on this floor a raw Assemblyman. My heart beat fast. I was about to see the office where the Governor worked."

There are two theories of Smith's submerged first three years in the Assembly. One is set forth in Smith's statement to his friends that it looked as though he would never make his mark, he was so discouraged with the maze of bills. Tom Foley, his leader, had quite another theory. "Al went up to Albany," he said, "on his first trip to the Assembly just as cocksure of himself as he has ever been in his life. He didn't cut much of a figure in the first two or three terms, but there was a reason for that, and if he won't tell, I will.

"He was too smart to be a morning glory. The secret of his success is that he never mingles in anything he doesn't know all about. He played a minor part in the Assembly until he was thoroughly familiar with the rules and procedure and with state legislation and finance in general. When he was sure of his ground he walked out, and it wasn't very long before he was the dominating figure in a legislative body hostile to him and to his political organization."

It was common knowledge that the number of legislators who read the annual appropriation bill in both houses—a bill of some three hundred pages—could be counted on the fingers of both hands. "The boys used to take it for shaving paper in the morning," explained one veteran of those days. It was so convenient to tear off the soft pages for the purpose! But Smith plodded through the bill from cover to cover. No item was unfamiliar to him.

His profound knowledge of state finances, as well as of the administrative machinery of the state, dates back to the old days of plodding labor with the appropriations.

His social gifts which charmed his neighborhood, the raconteur who made hundreds laugh, the mixer who circulated instinctively with people, that winning personality, soon captured the up-state legislator. And in a very short time no one in Albany had a wider acquaintance or knew more about conditions in the state than he.

"Exposing the polish and the shine on the gold brick" was one of his favorite sentences.

Knowing the needs of the State as few legislators in its history, he would rise at times to show up the true intent of an innocent item appropriating a tidy sum for a local bridge or a highway, or a creek.

"I pick up ideas," he has said, "from the back country fellows. They don't have a lot to think about when they are at home and they generally think pretty straight and to the point. I don't blame them for trying to use the power of the majority for the benefit of their communities in a legitimate way, but when they try to use their power for the benefit of an influential individual or institution, I am going to try to stop them and they know it."

Governor Smith tells of a walk from Albany to Troy one winter on the frozen Hudson River. He was with a friend from home. To him he poured out the tale of his discouragement, his bewilderment. He confessed also his overwhelming desire to make good. He saw that success lay through hard work and study. It interested him. It fascinated him. "I didn't know what it was all about, but I made up my mind to learn and to study."

So Al Smith plodded at his bills like few Assemblymen before or since him. He read and studied every bill. He worked hard on the committees to which he was assigned. No one in Albany toiled more devotedly. From a raw youth he transformed himself into an unquestioned authority on the State Government.

He grew in ability and stature. Endowed with a natural intelligence, a ready wit, a sincerity and a good sense, aptly characterized in the sentence, "Al never fools himself," he developed into a convincing speaker.

The quality of his eloquence springs from the quality of his personality. His persuasion is never merely rhetorical.

He uses no artificialties of phrase. His language is always simple. His speeches are packed with facts, illuminated by a turn of wit and humor, now by a touch of sarcasm, sometimes by an exalted appeal which is Biblical in its phrasing, and literary only in the sense that his words are as inevitable as the sentiment they express or the exhortation they contain.

"I wouldn't be honest with myself," he confessed, "if I didn't say I like political life. In spite of the strain of the disappointments from your inability to do one hundredth part of the things you are asked to do, there is a fascination in the game of politics that gets in the blood. A man who won't confess that he feels a sense of elation when he is honored and applauded by his fellow-men—and by his fellow-women since we gave them the vote—is a liar and the truth is not in him."

One of Smith's assets was his frankness with people. Social and civic reformers interested in particular bills of an uplift character or political zealots who conceived radical improvement of government in terms of their special bills—whether they dealt with corrupt practices, direct primaries, the Massachusetts ballot, or any other changes in the machinery of government—found Smith frank. When he had the power to make or mar a bill, he would give its sponsors the reason for his approval or opposition or its merits—and when his reasons were based on political expediency at the time, he frankly said, "I can't do this—politics is against it."

He never gave reasons based on merit where there were none.

He always took responsibility and "hated a buck passer."

Friend and foe, politician and reformer, knew that Smith's word meant action. He never forgot the moral asset of a politician—the reputation for keeping a promise made. He seldom made them but when he did, they were kept.

CHAPTER VII

His Stand for the Wage Earner

Being in the minority party save for the two years' administrations of Governors Dix, Sulzer and Glynn, in much of his legislative career he performed the function of critic. This is the primary duty of an opposition party. But Smith was never a destructive critic.

The three years from 1912 to 1915 were years of battle and achievement. They were the years of his leadership. They brought out all his powers as a debater. Unhampered by the responsibilities of a party in power, he was able to expose the weaknesses of legislative programs with uncanny effectiveness. No joker missed him. No attempt on the part of private interests to exploit the public through the medium of innocent general language devised by cunning and expert legal talent was missed by his sixth sense. He revelled in his opportunity. The Republican Governor and the majority leaders in both houses winced under the lash of his illuminating criticism, his caustic wit or his satiric humor, all aimed at "gold bricks." This was one of his favorite expressions for "ripper" legislation or bills designed to give special privileges to private interests at the public expense. Though years of opposition, they were also rich in legislative results for the causes in which he believed.

He assumed the responsibility of majority leadership in 1911, and that of Speaker of the Assembly in 1913. In 1911, the first Workmen's Compensation Law was passed in a Democratic administration. Until then, injured workers had to sue under the employers' liability law, which required the

plaintiff to prove that the injury was not caused by his own fault or the contributing negligence of a fellow worker. The growing army of crippled men and women who became public charges because they were too poor to employ counsel who could cope with the talent representing the casualty company cried out in protest. Labor unions and social workers proved by heartrending concrete cases and by impartial studies the social injustice of the theory of the existing law and the practice of insurance carriers. No legislation proposed during the session met with greater resistance on the part of the powerful special interests with their high-priced counsel, their lobbyists and their financial and other pressures. Smith proved a tower of strength in the cause of the industrial workers. No detail of the bill missed his practised eye. He foiled attempts to emasculate its provisions with apparently innocent legal language. The measure passed. It established for all time in New York State that the wear and tear of the human factor in industry is as much the concern of that industry as is its machinery. Smith's voice and his leadership have been powerful ever since, not only in preventing any weakening of the provisions of this statute, but in improving the law in the direction of greater compensation for injuries and speedier adjustments for the victims.

He fought the attempt of the insurance carriers to effect direct settlements with the workers without the intervention of the Workmen's Compensation Commission. He continued this fight until as Governor in his first term he succeeded in wiping out the evil. Every message of his contained recommendations urging improvements in the law.

The City of New York was shocked by a fire in the Triangle Waist Factory on March 25, 1911. Nearly one hundred and fifty working girls jumped out of lofty windows to certain destruction in the streets below. The people of the city were aroused. The conditions in factories which

made such a tragedy possible were forced upon the attention of the whole country. A mass meeting under the auspices of many civic organizations at the Metropolitan Opera House voiced the popular demand that immediate steps be taken to prevent such tragedies. Smith was then majority leader of the Assembly. With his aid the New York State Factory Investigating Commission was appointed. This body inquired into the conditions under which manufacturing was carried on in the State. It was directed to report to the Legislature with recommendations.

Associated with Smith on the Commission, of which he was vice-chairman, was Senator Robert F. Wagner, its Chairman, Samuel Gompers, President of the American Federation of Labor, Mary E Dreier, President of the Women's Trade Union League, Simon Brentano, and Robert Dowling, Abram I. Elkus acting as counsel, and Bernard L. Shientag as his legal assistant.

His experience on this Commission marked an important turning point in Smith's career. For the first time he had the opportunity to familiarize himself with industrial conditions throughout the State. They menaced the lives, the health and the safety of all workers.

With characteristic energy and thoroughness he entered upon his investigating duties. He travelled from one end of the State to the other. The Commission visited many important industrial establishments throughout the State. It acquired personal knowledge of conditions affecting the workers. Testimony was taken. Expert investigations were made. These labors resulted in a series of labor laws which had to be pushed through the Legislature against the most powerful industrial lobby that rich manufacturing interests could afford. Smith had the satisfaction of seeing these laws passed in the period of his leadership of the Assembly. The enactment of what is still regarded as the most enlightened labor code ever placed on the statute books of any State

was due in large measure to his personality, his eloquence and his leadership.

The labor laws passed during the Smith leadership of the Assembly from 1911 to 1915 comprised accident prevention and an increase in the number of factory inspectors. The penalties for violations of the Labor Law were safeguarded. Legislation was enacted for the licensing of immigrant lodging houses and the protection of workers in tunnels and caissons. Fire prevention requirements were devised, fire drills and automatic fire sprinklers were made compulsory. The Commissioner of Labor was given summary power to close up unclean factories. Registration of factories was required. Children applying for working certificates were obliged to submit to a physical examination and the fifty-four hour law for women and male minors was passed. Night work of women in factories was prohibited.

The Labor Department was reorganized, temporary classes in labor camps were provided, smoking in factories prohibited, ventilation provided for, and seats for women workers required. The dangerous trades were regulated and protection of elevators ordered.

Manufacturing in tenements was restricted, and many sanitary provisions were made for cleanliness of factories and other comforts such as wash rooms, dressing rooms and the proper toilet facilities. The eight-hour law was extended, and the employment of children in canning establishments and tenement house manufacture was prohibited. Street trades were regulated, public employment offices established and the enclosure of stairways in factories serving as exits in buildings of five stories or more was required, while the compulsory contributions to benefit or insurance funds in mercantile establishments was prohibited. The "one day rest in seven" law and the workmen's compensation law complete an extraordinary record of achievement in so short a time.

CHAPTER VIII

Smith in the Constitutional Convention

The year 1915 gave Smith a broader forum. It enabled him to dedicate the knowledge of the State government acquired by experience as a legislator to the work of changing the fundamental law of the State to meet the changing industrial and social needs of its people. He was a delegate to the Constitutional Convention called in pursuance of a provision for reconsideration of the constitution and its change upon the approval of the voters, every twenty years.

The presiding officer was Elihu Root. This veteran Republican statesman brought to the post a rich experience. He had seen years of public service as United States Senator, Secretary of State, and Secretary of War. Both political parties sent their ablest men to the Convention. General George W. Wickersham, Attorney General of the United States under President Taft, was the majority floor leader. The Republican Party was also represented by men like Henry L. Stimson, ex-Secretary of War, Congressman Herbert Parsons, United States Senator Wadsworth, George Clinton, Edgar T. Brackett, Martin Saxe, Harvey T. Hinman and Judge Clearwater. The Democratic membership included men like ex-Judge Morgan J. O'Brien, Senator James J. Foley, Senator Robert F. Wagner, and DeLancey Nicoll.

Smith participated in nearly every important debate. He displayed a knowledge of State administration and legisla-

tive procedure, and of history as well that astonished this assemblage of veteran statesmen, judges, administrators and legislators. No phase of the State government was new or unfamiliar to him.

His objections rarely resulted in merely destructive criticism. He had always a constructive amendment. In the formal language of a parliamentary assemblage he began with "strike out on page —, line —, and substitute the following." The words rang out over the hall like a trumpet.

The convention offered him a rare opportunity for displaying his natural gifts as a debater. He submitted his criticisms and made his motions with aggressiveness. He was unfailingly courteous. Seldom if ever did he refuse to stop, when a delegate put the usual interruptive parliamentary question, "Will the gentleman yield?" His replies revealed a spontaneous wit. They always contained an answer that attempted to meet the questioners honestly.

As a debater he reflected in voice, in gesture, and in thought, the masculinity of what the Fourth Ward loves—a "he-man." Manly vigor characterized his arguments. Smith was never stilted. His language sometimes lacked the polish with which technical lawyers put their arguments. It never lacked cogent persuasiveness and the eloquence which emanates from a strong personality. It had that elusive magnetism which springs from human qualities deep under the surface. Its very roughness contributed to the spontaneity of its effect. He had too much to say to be bothered about the way of putting it. At times he would expose the underlying motive for what he thought wrong in a picturesque phrase which showed up the purpose and raised the laugh of recognition.

He was always well informed although he dealt with many themes. Among the subjects he discussed were apportionment, home rule, executive budget, taxation, water power and

conservation, a living wage for women and children, labor laws, the use of the emergency message in legislative procedure, public service corporations, state departments, and the literacy test.

He usually began his argument by tracing the history of the legislation which had brought about the existing status of the matter under discussion. His memory never failed when put to the test of a question of fact.

Throughout the debates he adhered to his Democratic philosophy. He was a firm believer in the rule of the majority. He applied his theory consistently to the many proposals considered by the convention.

Aside from the political apportionment plank adopted by the majority, which was the chief reason for the rejection of the amended constitution by the electorate, the constitution was a creditable piece of statecraft. It contained fundamental changes in the structure of the State government, including the reorganization and simplification of the State government, and an executive budget plan for which Smith was destined as Governor to battle against the very Republican party whose leaders in the Convention favored it.

Elihu Root in his final address paid an eloquent tribute to the quality of the debates in the convention. It was Elihu Root who in an informal gathering said, "Of all the men in the Convention, Alfred E. Smith is the best-informed man on the business of the State of New York." The majority floor leader, General George W. Wickersham, characterized him as "the most useful man in the Convention."

CHAPTER IX

In the Local Politics of New York City

Nineteen hundred and fifteen saw the close of his career as legislator. For twelve years he served his State and his party continuously in the important but unlucrative office of Assemblyman.

Always poor, he came out of the Assembly with his purse as empty as when he entered it. His party, realizing his sacrifice, could not in justice to his large and growing family allow him to continue it, and he was nominated for the well-paid office of Sheriff of the County of New York.

Smith's candidacy was hailed by Republicans and independents alike with enthusiasm and approval. Even the New York Tribune, the Republican metropolitan daily, paid him an honest and forceful tribute in its editorial of September 3rd, 1915, headed "Alfred E. Smith."

"The City of New York could well afford to pay Alfred E. Smith all the prospective emoluments of the Sheriff's office as a consideration for his continuing to represent a local Assembly district at Albany. In the past ten years, there has been no Republican, Progressive or Democrat in the State Legislature who has rendered as effective, useful, downright valuable service to this town as ex-Speaker Smith . . . .

"The peculiar value of Mr. Smith's service at Albany has lain in the fact that he was always loyal to his own city, his own county and his own district. He has fought for some

scores of things that were good, and he has fought with equal vigor against things that were injurious to this town. . . .

" . . . A true leader, a genuine compeller of men, a man of wit and force with an instinctive grasp on legislative practice, he has made a real reputation for himself at the capitol, and has deserved well of the large constituency which is his own town."

The Citizen's Union, ever an anti-Tammany organization, endorsed Smith's candidacy in the following language:

"Alfred E. Smith is endorsed for Sheriff of New York County. As to his qualifications for this office there can be no question. The service to the State rendered by Mr. Smith in the Constitutional Convention this year entitles him to special consideration. . . .

"Although a party leader, Mr. Smith has in recent years been instrumental in obtaining much desirable and important legislation. We are endorsing Mr. Smith in the expectation that he will improve the conditions in the Sheriff's office." And the New York Sun, a Republican organ which has frequently applauded Smith in public office, in an editorial under date of October 23, 1915, commenting on the endorsement of Smith's candidacy for Sheriff by the Citizens' Union, published the following editorial:

"The Citizens' Union does credit to itself as well as to the Democratic candidate for Sheriff of New York County, Alfred E. Smith, in endorsing him as the man for the voters to support at the polls on November 2. This is a merited acknowledgement of the service Mr. Smith has rendered in laboring ably and energetically in the interest of New York City in the Legislature, where he rose to the position of Speaker of the Assembly simply because he demonstrated a force of character in dealing with men and affairs that could not be downed.

"During the recent orgy of extravagance indulged in by the Republican Legislature, Mr. Smith and Senator Robert F. Wagner, as the minority leaders of the two Houses, fought to the last ditch to prevent the saddling of $14,000,000 of the scandalous direct State tax on the taxpayers of this City. Although the present municipal administration was elected in opposition to their party they did not hesitate to act as the spokesmen for Mayor Mitchel and President McAneny on the floor of the Legislature in an effort to prevent the partisan raid on the city treasury.

"Mr. Smith's promotion to the most coveted position to be filled at this fall's election is deserved. It is only to be regretted that his services to the city in the Legislature when the Republicans resume their raiding—providing the Democrats fail to carry the Assembly—will be sadly missed."

In the municipal campaign, which began at the close of his term for Sheriff in 1917, Smith was nominated for President of the Board of Aldermen and he bore the brunt of oratorical battle for his party in that campaign. He revelled in satirizing the hornrimmed-spectacled youths who called themselves efficiency experts, so dear to the hearts of the reformers.

Smith, as campaigner, has the intuitive gift of reading the mind of the mass and making it recognize itself by that approval which comes from a hearty laugh confirming its convictions and its prejudices. He picked out one of the most vital flaws of reform administration, a belief in efficiency alone as a sure appeal to popular favor. Smith leads the common people by his sympathetic and understanding interpretation of their viewpoint and is thereby able to effect reforms without making the mistakes of reformers.

Robert Adamson, formerly secretary to Mayor Gaynor, and a well-known newspaper man, was Smith's opponent on the fusion ticket. They were good personal friends.

Adamson challenged Smith to a joint debate. It was held before a Brooklyn Club.

In the course of his speech Adamson asked:

"What are your qualifications for the office of President of the Board of Aldermen?"

"My qualifications," answered Smith, "are: twelve years a member of the New York Legislature and four years Democratic floor leader there. I was for one year Speaker of the Assembly. I was six years on its cities' committee, which revised the New York City charter. As chairman of the ways and means committee I personally prepared the State budget. It cut down expenses by fifteen million dollars as compared with the last year of Governor Hughes's administration.

"I was vice-chairman of the committee which obtained the enactment of our existing excellent factory fire prevention laws. I was a member of all the important committees of the last Constitutional Convention. If there is any man in the city with the same legislative experience, let him speak. I will be glad to surrender my nomination to him, and go back to Fulton Market."

Then he sat down. Adamson arose—and took a drink of ice water!

The Board of Aldermen of 1917, whose President he now became, saw the emergence of a new group, small, but sincere and intelligent. Five Socialist aldermen were elected for the first time in the history of the City.

As presiding officer of the Board, Smith gave to this new minority the consideration due it. Socialists were assigned to the most important committees and when a radical minority held office he never forgot that he also had led minorities in legislative chambers. His attitude was forcefully expressed in his opening speech as President of the Board of Aldermen in January, 1918:

"To the majority party, I desire to say that the people of this city in no uncertain terms placed upon us a grave responsibility. The glory that comes from what we do of benefit can be claimed by everybody. That which is neglected constitutes our sins of omission.

"I have a keen understanding of the relationship to the body of the minority and the minor minority (meaning the Socialist members). The people rule negatively as well as affirmatively, and a good, healthy, vigorous minority is the necessary check on great power.

"The rules of the board are intended for the protection of the rights of the minorities as well as to expedite the business of the majority. In that spirit, I will interpret them with a desire to do equal and evenhanded justice to all."

CHAPTER X

Smith for Governor

His service on the Board of Aldermen was brief. It began in January, 1918, and by June of that year a well-defined movement was afoot to nominate him for the Governorship.

In the twelve years of his legislative career, Smith was the outstanding champion of justice to New York City. His loyalty to the interests of the city of his birth was proclaimed by New Yorkers, whether Republicans or Democrats. These achievements were recognized by opposition party newspapers. They were proclaimed by civic bodies strongly opposed to the local Democratic organization. New York's love was always ungrudgingly given him. What many New Yorkers did not appreciate was the impression he had made upon upstate communities and their substantial leaders above the Harlem River.

His gift for friendship had brought him friends in the Legislature. They included such stalwart political foes as Ed. Merritt, long his opponent as majority Republican leader in the Assembly, and the late Senator Edgar T. Brackett, who gave many years of distinguished service to his party in the upper house at Albany.

The Smith personality and the accumulated results of his service had won him a large acquaintance throughout the State. It was thus not unnatural for upstate Democratic leaders to look upon him as sound gubernatorial timber. They shrewdly calculated his vote-getting powers in New

York City. Of his fitness for office both by natural endowment and acquired training they had not a shred of doubt. A strong movement in favor of Smith for Governor emanated from the upstate Democratic leaders. The local New York City organization idolized Smith. With the initiative of upstate spontaneous support it was not difficult for him to secure the nomination in the Saratoga Convention of 1918.

The pride and pleasure which that nomination brought to him and his family was revealed through his son Arthur, then a little boy of ten. It happened that Mrs. Smith could not attend the Convention. There was some question as to which of the children would be allowed to accompany their father. Arthur assured his mother that if he was allowed to go, he would "bring home the bacon."

The lad listened to every word and counted every vote in the Convention. It was he who dashed to the telephone to say to his mother, firmly convinced it was so, "See, I told you I'd bring luck and I did. We've got it."

No sensational issues characterized that campaign. Smith criticized the Republican administration for its extravagance. He stood for an aggressive support of President Wilson in winning the war. At the very close of the campaign, he had the opportunity to meet a group at the Women's University Club of New York. Adapting himself quickly to his audience, which consisted entirely of women, he told them the history of the suffrage movement in the State and discussed with them the underlying theory of representative government. He concluded his speech by saying, "I have spent twelve years in the Assembly in the State of New York and I know the State Government. I want to say to you here and now that if I am elected I will do what my conscience tells me is best for the State of New York. If I do wrong, you may be sure that it will not be from ignorance and you can hold me responsible." The straightforward manliness of

that speech brought him thousands of wavering votes from independent Democrats.

The influenza epidemic broke out during that campaign month of October. It proved so violent in upstate communities and in the larger cities that active campaigning had to be abandoned. This calamity affected the very strongholds in which the Democrats most needed recruits. Despite this handicap, Smith was elected by the very small majority of 15,000 votes. The dream of the young Assemblyman from the Fourth Ward of New York City came true. Al Smith was now the Governor-elect.

CHAPTER XI

The Governor's First Year

The gratitude which welled up in his heart for this honor conferred upon him by the electorate of New York took the form of a solemn vow to give the people the best that was in him.

When, on the first of January, 1919, he placed his arm upon the Bible to take the oath of office, with his mother by his side, his wife and his five children around him, he looked out upon the Assembly Chamber packed with his loyal and loving friends. The spectacle inspired his silent prayer to Divine Providence to make him worthy of his responsibilities.

"No one owes more to the State than I do," he said.

No Governor tried to give more of his deepest soul to the duties of that office. His inaugural address was an expression of his gratitude. Simple in its language and deeply human in the emotions, it was only a dedication of himself to public duty.

Delightfully informal as Al Smith can be, he was every inch His Excellency. His attitude reflected that solemn dedication born of his gratitude to the people and his own conception of the dignity of the office he now held.

When Mr. and Mrs. Smith, and their five children, with Cæsar, their great Dane, came to occupy the Mansion, they lived as simple neighbors. For the first time within the memory of Albanians the children of the neighborhood could

be seen playing on the grounds. The children were as democratic as their father. They lived just as they did in their old neighborhood. They made many friends among the neighborhood children.

About a month after the family settled in the Mansion, while they were having their "supper"—the bell rang and the Governor received the visitor in the hall. The woman was plainly embarrassed. "Are you Governor Smith?" she asked. "I have that honor," replied the Governor.

"I'm afraid you will think me foolish" said the visitor, "but I am Mrs. So-and-So and a neighbor. I want to know if my little daughter is here."

"Yes," answered the Governor, "she's inside at supper with the family. Come in and see her."

She found her daughter in the seat of honor at the dining table to the right of the Governor's chair.

"I couldn't believe it," she stammered, "although she is a truthful child. When she told me one of your daughters had invited her over to din—I mean supper—I have seen several families come and go—well—I just had to come over to see for myself."

One Saturday evening the Secretary of the Reconstruction Commission had a conference with the Governor in his study on the second floor of the Mansion. Three times during the conference the Governor excused himself for about five minutes. Each time he left the room the resonant voice of the Governor was heard and boyish shouts of laughter, accompanied by the splashing of water. Finally, after his third departure from the conference, he explained these mysterious interruptions.

"Ever since my boys were old enough to frequent a bath tub I have had fun turning the hose on them. My mother came up today with my sister's little boy and he and my two boys have been taking turns in having the hose turned on them."

Smith is not a self-made snob or a democratic snob. He has no prejudices because of social station. First families do not interest him just because they are F. F.'s.

Albany prides itself on the exclusiveness of its aristocracy. When Smith became Governor he was invited to dinner with one of the most exclusive families in Albany. He refused. It created quite a stir and reached him. In explanation he said: "I have been in Albany for fifteen years. I have met all the members of that family socially a number of times. This is the first time they have invited me to their home. Governor Smith may be different from Assemblyman Smith to them but not to me."

Smith met "high society" at the charity ball. It is the leading social event in Albany and at it the Governor of the State is the guest of honor. Society was curious to see how this man of the plain people would handle himself.

The curious found him in his formal even attire, looking every inch the Governor, whose dignity and repose were striking. As the Four Hundred of Albany visited the Governor's box, he had something appropriate to say to each. He really charmed them with his poise as much as he surprised them all. Many, meeting him for the first time with preconceived notions of a crude personality, received a first hand impression of a governor to the manor born.

Smith entered upon his gubernatorial duties soon after the armistice was signed ending the World War. He struck the keynote of his administration in his first message.

"Our hearts go out to the afflicted families who have but the memory of their loved ones, and the sad sight of the returning sick and wounded puts the pang of sorrow in our hearts. Let us, nevertheless, greet the dawn of peace as meaning the end of the black night of conflict that has convulsed practically every civilized nation in the world. The new era that is coming in the United States puts the duty

upon our State of blazing the way in the conception of re-adjustment. The old order of things that means standing by and meeting the situation when it presents itself must at once give place to a policy of initiation, broadness of vision and foresight that will not only hold the position we have inherited in the country's affairs, but will provide for the successful solution of every condition that can arise.

" . . . In the wake of war, there is much that needs re-adjustment, and ours is an opportunity for the upbuilding of the service of the State to the people on permanently progressive lines."

When Smith was elected governor he received letters of congratulation from old neighbors who settled in every part of the U. S., and even from the Philippine Islands. Commenting upon these letters, he said:

"Consult the history of the city, you will find that the lower end of Manhattan was the beginning of the State of New York. At one time practically the whole population of the State lived there.

"It was from the lower part of Manhattan that the adventurious pioneers moved up through the Hudson Valley and out through the Mohawk Valley beyond. That movement has continued ever since. It was particularly strong in my young boyhood and young manhood. Horace Greeley's advice, 'Young man, go West,' still carried force. From the letters I received it appears that the migrants from the old Fourth Ward have contributed something to every community they have settled in."

In the interval between election and inauguration, he gave thought to plans for solving the State's reconstruction problems. He divided them into two classes, the temporary and the permanent.

The temporary problems requiring immediate solution were the need of relief for injured soldiers, impoverished

families and orphan children, and for the unemployed.

Among the permanent problems of reconstruction he enumerated taxation to bear equally upon all classes, the high cost of the necessities of life, housing, more stringent laws for protecting the health, comfort and efficiency of the people, and problems of finance, banking, labor, the position of women in industry, education, and Americanization.

On January 20, in a special message to the Legislature the Governor announced the appointment of a Reconstruction Commission, and requested an appropriation of $75,000 for its work.

The non-partisan spirit in which he conceived this work was manifested in the quality and standing of the men and women he appointed without regard to party. He sought the best citizens he could recruit from the community. The chairman was Abram I. Elkus, former Ambassador to Turkey, and a distinguished member of the New York Bar, who rendered signal service as counsel of the State Factory Investigating Commission, and who conceived a profound admiration for the Governor's ability and sincerity.

The roll of members should be scanned critically as evidence of that unerring insight into human character and capacity which experience had developed in him.

Abram I. Elkus, of New York City, who served as counsel to the New York State Factory Investigating Commission; Ambassador to Turkey, and a member of the State Board of Regents, lawyer.

Charles H. Sabin, president of the Guaranty Trust Company of New York City.

Bernard M. Baruch, of New York City, chairman of the Federal War Industries Board.

Gerrit Y. Lansing, of Albany, well known banker and Federal Fuel Administrator for Albany county.

John Alan Hamilton, president of the Legal Aid Bureau of Buffalo.

Dr. Felix Adler, leader of the New York Society for Ethical Cul-

ture and well known generally throughout the country for his patriotic and civic activities.

Charles P. Steinmetz, of the General Electric Company of Schenectady, inventor and electrical expert.

John G. Agar, active in war work, and a prominent lawyer of New York City.

William M. K. Olcott, former District Attorney of New York county.

Arthur Williams, of the New York Edison Company of New York City, and Federal Food Comptroller of New York.

Michael Friedsam, president of B. Altman & Company, of New York City.

John C. McCall, secretary of the New York Life Insurance Company, of New York City.

Thomas J. Quinn, president of the Bronx National Bank, New York City.

Alfred J. Johnson, City Chamberlain of New York City.

Carleton A. Chase, prominent business man of Syracuse, N. Y.

George Foster Peabody, of Saratoga, director of the Federal Reserve Bank.

Dr. Henry Dwight Chapin, well-known physician of New York City, and especially interested in child welfare work.

Mortimer L. Schiff, son of Jacob H. Schiff, banker and philanthropist, of New York City.

Mrs. Sarah A. Conboy, and Peter A. Brady, of New York City, representing the State Federation of Labor.

Addison B. Colvin, of Glens Falls, president of the Glens Falls Trust Company, and Federal Coal Administrator for Central New York.

Mrs. Walter W. Steele, of Buffalo, prominent war worker of Western New York.

Mrs. Harry Hastings, of New York City, member of the Executive Committee of the Democratic County Committee of New York.

Edward F. Boyle, Judge of the Municipal Court of New York City.

Henry Evans, of New York City, president of the Continental Fire Insurance Company.

M. Samuel Stern, member for many years of Board of Education of New York City.

Mrs. Lewis Stuyvesant Chanler, of Barrytown, Dutchess county, wife of former Lieuenant-Governor Chanler.

Thomas V. Patterson, of New York, president of the Lehigh &

Scranton Coal Company, and member of the New York Produce Exchange and the Brooklyn Chamber of Commerce.

Mrs. William H. Good, of New York City, former president of the Civitas Club and active in charitable and civic organizations and a member of the National League for Women's Service.

Norman E. Mack, of Buffalo, publisher of the Buffalo Times and the Democratic National Committeeman from this State.

J. N. Beckley, prominent citizen of Rochester.

Otto B. Schulhof, prominent manufacturer of New York City.

V. Everit Macy, of Westchester, chairman of the Ship Building Labor Adjustment Board and chairman Executive Committee of the National Civic Federation.

Richard S. Newcomb, prominent member of the bar, Flushing, L. I.

S. J. Lowell, of Fredonia, president of the New York State Grange.

Alfred E. Marling, of New York City, president of the Chamber of Commerce of New York State.

In announcing the Commission, Smith called upon every available official and unofficial resource of the State to aid it.

From the very outset of his administration, the Governor was hindered by the partisan opposition of a Republican Legislature. The funds he requested for the Commission, which could easily have been transferred from unexpended balances of the State war services, now at an end, were denied him. The Commission secured financial support for its work from voluntary subscription. A permanent organization of standing committees dealing with the subject matter suggested by the Governor and other important problems was quickly effected. Co-operating with them was a staff of experts. On March 20, two months after its appointment, the Commission presented its first report to the Governor. It dealt with the necessity for preserving the State's employment agencies. The Federal employment system was threatened with demoralization through lack of appropriations from Congress. During the war the State agencies were merged with the Federal system. The breakdown

meant paralysis of the State in placing returned soldiers and civilians during the period of serious unemployment which followed the war. An appropriation of $50,000 was granted by the Legislature. Thus the State was able to continue its work of placement when it was most needed.

The first temporary problem was solved.

The second report of the Commission dealt with the compulsory military training of boys under eighteen years of age. It afforded a sound analysis of the function of military training of boys under eighteen in times of peace.

The Commission recommended the abolition of the Military Training Commission, which was the existing agency for such training. Its functions were to be transferred to the Department of Education. The Republican Legislature did not follow this recommendation until the next administration came to power.

One of the Governor's first acts was to appoint Mr. Jeremiah F. Connor, Commissioner under the Executive Act, to investigate the management and affairs of the State Industrial Commission.

He was greatly concerned over the weakening of the compensation law. This had been brought about through an amendment passed by a Republican legislature in the administration preceding his which permitted direct settlements between the victims of industrial accidents and the insurance carriers. Smith had strenuously opposed this when he helped put through the original law in 1913. He succeeded then in combating the insurance lobby, and thus kept this form of settlement out of the law.

Mr. Connor's report was filled with illustrations of abuses which arose under this amendment. Injured workers, ignorant of their rights, made direct settlements with insurance companies which considerably reduced the sums they were entitled to receive under the law. The claims of insurance carriers that direct settlements would reduce the cost of the

law's operation and end the claimant's case with dispatch were not borne out by the facts.

The report was so convincing that the Governor's recommendation to abolish direct settlements was approved by the legislature. Thus, one of his campaign pledges to working people was kept, and once again Smith came to the rescue of the Workmen's Compensation Law.

A popular legislative achievement of his first term was permissive legislation to local communities which desired Sunday baseball and Sunday movies. His point of view on innocent Sunday recreation was set forth in the memorandum of approval which accompanied his signature of these bills.

One of the most serious effects of the high cost of living during and immediately following the war, was the loss of experienced teachers and supervisors from the public school systems of the State. They simply could not afford to remain in the schools. Salary schedules were based on prewar living conditions. Teachers sought more lucrative work.

The Governor's memorandum of approval of a bill to remedy this condition is characteristic of his attitude toward the functions of education in a democracy:

This bill amends the Education Law to provide increases in salaries of the teaching and supervising staff of the public schools throughout the State and increases the allotment of State funds to cities and rural school districts. Fifty-three thousand school teachers are affected by it. This measure establishes the principle of equal pay for women, corrects present discriminations and increases the inadequate salaries now paid to members of the teaching staff. It should result in filling the many vacancies in our schools, which were caused by higher compensation paid in other fields of employment.

In my annual message to the Legislature I stated: "The efficiency of the school cannot rise above the standard of qualifica-

tions set for the teaching service. To bring this about the teachers should be adequately paid and fairly pensioned. I strongly recommend that whatever curtailment may be necessary elsewhere, full and adequate provision be made for the education and training of our children.

It has been certified to me by the State Department of Education that the training schools for teachers are not attended in a satisfactory manner due to the fact that the salaries paid to school teachers fail to attract women to that important service. This presents a serious situation and one that the State itself must deal with. It is a narrow-minded statesman who thinks only of the day he lives in. If our common school system is to be maintained in the degree of efficiency that the greatness of the State suggests, we must build for the future. By this bill we are attracting to the school service the best talent the State can secure.

There has been much discussion in the public press as to the cost of this bill to the City of New York. It has been certified to me by State Commissioner of Education Finley that the cost will be as follows:

First year (1920)	$1,612,000
Second year (1921)	5,700,000
Third year (1922)	9,450,000

There are two great functions the State performs for our people. One is the education of our children and the other is the preservation of health. General O'Ryan states that the intelligence of our soldiers contributed as much as any other one thing to the great successes our armies achieved in the struggle for the freedom of civilization.

Our country has just been tested by the fires of war and our future safety rests upon the school system that will weave into the hearts and minds of generations to come the principles of American freedom and justice. The country or the State cannot be above the efficiency of its people, and no money spent for education or the preservation of health is ever wasted.

I have yet to meet the taxpayer who would admit that the education of our children should not be put above a mere matter

of dollars and cents. The cost of this measure cannot be spoken of in the same terms as road improvements, canal construction and different other activities of the State for which many millions have been appropriated. The pubic schools must be adequately supported if they are to remain the bulwark of the Nation and their success is dependent upon the number and ability of our teachers.

The President of the Board of Education in Great Britain in presenting the education bill during the war said: "That nation which after the war employs the best teachers with the highest pay will be the best governed and therefore the greatest nation."

Another of his campaign promises to the women of the State was fulfilled by signing a bill giving permanent status to the Bureau of Women in Industry in the Labor Department, "by which the conditions surrounding the employment of women in industry throughout the State can be examined into, and proper safeguards for their health and protection can be provided."

Prohibition closed a rich avenue of revenue for the State through the abolition of excise license fees. Both parties agreed that new sources of revenue were needed to meet the State's expenses. The Legislature, therefore, passed a State income tax law, which the Governor approved.

But a Governor is judged not only by the legislation he approves. Just as frequently his mettle is tested by his vetoes. Smith, as "Veto Governor," revealed all his close knowledge of the State government acquired by twelve years as a legislator. He applied that knowledge with that uncanny sense for jokers and political pap which was so evident in his work in the Legislature and in the Constitutional Convention.

There were governors in the history of the State who took the word of the chairmen of the financial committees of the Legislature that the appropriation bill was "all right."

They signed it with but slight scrutiny. Governor Smith knew how the appropriation bills were drawn. He had helped to draw them. He was familiar with the indirect routes traveled by those innocent line items of appropriation bills which favor faithful party workers and punish other employees. He understood the political significance of bills which meant patronage and "pork" for favored committees and particular politicians using the public treasury to keep pre-election promises made to local constituents.

His vetoes set forth the principle that partisan political considerations for local improvements at the State expense would not be tolerated by him. Sound policy demanded a reasoned and comprehensive plan of highway and canal and other improvements worked out in the order of importance by the heads of the departments who knew the State's needs from the viewpoint of its best interests.

The Governor delighted in vetoing the many local improvement bills masquerading in the guise of a Statewide measure. The familiar creek to be dredged, the local highway and bridges to be built, old friends and new acquaintances were before him this time as Governor, long known to him as legislator, and he used the axe like a virtuoso. Nearly three million dollars were saved for the people of the State by the Governor in this way.

Just after signing one such appropriation bill, he said to an intimate friend, "Well, I finished the appropriation bill today, and I signed it, and I thank God that I can honestly say there is not one dollar in it that interests me personally, or that I asked to have put there."

Smith enjoyed every piece of work connected with the Governor's office but one—the pardoning power. This responsibility in every case shook him to his very depths. The veteran pardon clerk of the executive office who had dealt with many a Governor in pardon applications stated that

Governor Smith gave more attention to appeals from death sentences than any Governor in his memory. It gave him many a sleepless night. Naturally sympathetic the appeal of mothers, wives and children moved him deeply.

He read every case in all its details. He would take the record with him on trains, grounded himself in the law and in conversation with trusted friends he would put hypothetical cases to them for their reaction. He consulted with judges of last resort on points of criminal law and they were astonished by his knowldge of rules of evidence. One of them said he was one of the best criminal lawyers in the State.

Very early in his first administration he determined to have nothing to do with exploiting lawyers in pardon cases. Always accessible, he went through the harrowing experiences of meeting the families of condemned prisoners rather than have them mulcted by certain types of pettifoggers. He saw too much of the effects of crime upon the innocent members of families not to protect them from the exploitations of their tragedy. It soon became rumor that lawyers in pardon cases were persona non grata at the executive chamber.

On one occasion he made a special trip to New York to inspect personally the scene of the gang murder to clear up in his own mind one vital piece of testimony in a case. "There is only one doubtful point in this case," he said. "It rests in the testimony of the police officer who described the escape of the murderer. On the face of the testimony, I do not believe the fleeing man could have done all the things the policeman said he did in the limited time he was under observation." At the scene of the murder in New York City, he went through all the movements described by the policeman, including one which involved jumping from a window, and found that the time mentioned by the officer was ample. He returned to Albany that night and on the

next day refused the application for clemency.

Hearing the last plea of the mothers of prisoners condemned to death was particularly painful to him. A friend recalls his interview with the mother of a boy who had a long criminal record, and who was condemned to death for shooting the officer who attempted to prevent him from committing burglary. The mother was desperately persistent. He questioned her shrewdly but tenderly. "Why didn't he go on the stand?" he asked. The mother admitted that her son's record was too bad and testimony would be damaging.

The decisive consideration with the Governor in this case was the killing of an officer on duty and engaged in the performance of it.

His acts of mercy were many but always the result of conscientious study and only when he was convinced that clemency in each instance was in the interest of society as well as the prisoner and his family.

CHAPTER XII

Woman Suffrage

Governor Smith proved an effective ally to the cause of woman suffrage. Upon the receipt from the Acting Secretary of State, Mr. Frank L. Polk, of a certified copy of the "joint resolution proposing an amendment to the Constitution extending the right of suffrage to women" with a request that he submit it to the Legislature for its action, he took pride in prompt action to place New York among the first of the States to ratify. He immediately called an extraordinary session of the Legislature on June 10, 1919. His reasons were set forth in the Proclamation calling the session.

My purpose in calling the Legislature in extraordinary session is to enable it to take prompt action upon the proposed amendment to the Constitution of the United States extending equal suffrage to women.

New York State has already extended to women the suffrage within its own bounds. When the right of the women in the Nation to the same privilege is to be determined New York State, the Empire State, should be in the front rank bearing its full share of responsibility, with its full share of the efforts required to write into the Federal Constitution the principles we believe in and to grant to the women of our land the right to which they are entitled, which should be speedily granted them as a slight recognition of their heroic conduct in the great crisis through which we have so recently passed.

It is important that action should be taken upon this measure before the next regular session of the Legislature for several reasons.

New York should be in the forefront in the advocacy and adoption of all measures of a beneficial progressive character in the support of which it has too often lagged.

But furthermore, if this privilege is to be extended to women in such form as to entitle them to full participation in the next ensuing presidential election, early action is necessary.

It would not be sufficient to permit them only to choose as between candidates selected and principles approved by others, but they should be enfranchised at a date so early that they may take part in the primaries which will be held next spring to select delegates to the national party conventions and thus be co-workers from the very start in the selection of candidates and the declaration of party principles.

In order to secure this early action by at least thirty-six of the States, it will be necessary to call special sessions of the Legislatures of many of them, where regular sessions will not under their constitutions be convened until 1921.

I know of no greater stimulus to prompt and energetic action throughout the Nation than would follow the immediate and decisive approval of the proposed amendment by this the most populous of the commonwealths.

If it receives the approval of New York at an early date, I believe her good example would be far-reaching and forceful and be followed by a sufficient number of her sister States at a date so near that full association in the steps leading up to selection of our next President would be enjoyed by the newly-enfranchised voters.

The prompt action of the New York State Legislature was regarded by the suffrage leaders as a strategic move favorably influencing the legislators of other States for the final ratification of the Constitutional Amendment.

CHAPTER XIII

In the Throes of an Economic Crisis

Many a difficult problem confronted Governor Smith at the close of the Legislative session. The people of the Empire State were in the throes of the economic adjustment resulting from the war.

In a communication to the Governor, the Reconstruction Commission had declared that "due to many causes, the industrial life of the State is undergoing a period of unrest." The situation, in fact, was assuming serious proportions. It recommended that the Governor call a "statewide conference of representatives of employers, workers and public spirited men and women for the purpose of preparing a program of action which will endeavor to prevent strikes if possible and to bring about arbitration and mediation of differences between employer and employee by men and women who are willing to serve the State voluntarily."

The Governor held such a conference in the Executive Chamber on September 16. It was attended by a representative gathering of the three parties in industry—labor, employer, and public. The conference unanimously adopted the Governor's suggestions. He appointed a special board accordingly to be known as the Governor's Labor Board. It was to consist of representatives of labor, capital and public.

Upon its appointment, the Governor's Labor Board did creditable work. It aided in allaying the industrial unrest at the time. It prevented strikes in public utilities at Buffalo and in the textile industries of the State. It averted a strike

of 70,000 garment workers in New York City. It prevented another between the milk wagon drivers and their employers, the distributing companies of New York City. The employers of the Railway Express Companies were kept at work while their grievances were settled. The shirtmakers in New York invoked the aid of the Board.

To much of all this work the Governor gave his personal attention. He was the chief influence in bringing about industrial peace in some of the most important industries of the State. All had been seriously disturbed by the post-war spirit of unrest.

Drivers of milk wagons in New York City threatened to strike when their agreement with their employers was about to expire at midnight on a Sunday in October, 1919. The employers were willing to arbitrate the differences. These were mainly concerned with wage questions. The time for the contract to expire was only twelve hours away. Governor Smith sent telegrams to both sides urging a continuance of work and arbitration of differences. The employers were willing. The men would not consent. Sunday evening at six the men had called a mass meeting to make their final decision. If the strike occurred, children and sick people, to say nothing of mothers and infants and householders generally would suffer hardship and inconvenience. A last minute appeal to intervene was made to the Governor through his Labor Board. It was seven o'clock. The men thronging in the hall were indignant at any suggestion from their leaders that they arbitrate. Their president telephoned desperately that his last expedient for averting a strike was to have the Governor come in person to the hall and plead with the men.

It was seven o'clock and the hall had to be vacated by eight. It being Sunday the Governor was in Brooklyn visiting his mother. When last communicated with he was on his way back to the hotel at which he was staying. Time

passed and he had not got there. At last, at twenty minutes to eight he answered the telephone. The plea was made to him to go.

"I haven't eaten all day and here's my dinner on the table. Pretty hard on me to have to go and ask a lot of striking milk drivers to stay at work." The plea of sick babies and mothers was made to him. "I'll go," he answered.

Word was flashed to the hall to hold the men.

They stayed.

He arrived and was hustled through the seething mass. They listened. He asked them in simple language, in the name of mothers and children and the sick to stick to their duty and adhere to the responsibilities they had assumed. He promised that their grievances would be arbitrated. As he finished speaking a quick vote was taken by acclamation and the strike was averted. The men carried him from the hall on their shoulders.

On another occasion, he assembled in the Executive Chamber the employers and workers in the cloak and suit industry in New York City. Seventy thousand workers were affected by a threat to strike. As a matter of fact, some of the shops were already out in violation of their collective agreement. The issue was the request of an increase in wages because of the increased cost of living, not foreseen when the agreement had been made. The employers' counsel attempted to prove that the union broke the agreement by countenancing the shop strikes for higher wages. The Governor asked the lawyer to show him the contract. He studied it for a moment and then said: "Show me any paragraph in the contract which says the machinery of mediator and arbitrator must be used when the men ask for more money." The employers said they would be satisfied if the men stayed at work and permitted the Governor's Labor Board to arbitrate their differences.

The workers were hesitating and their leaders indicated that they did not believe they could control the men sufficiently to stop the shop strike and send the men back to work. While the employers' counsel was making another long argument, the Governor quietly called the real leader of the men over to him at his desk and said very softly:

"That was a fine speech. You had to make it and it went over big with your people, but just between you and me and the lamp post, you can send them back if you want to. Now, can't you?"

In response to the knowing look in the Governor's eye, the union leader quickly said:

"Sure, sure." And he did.

A WEST POINT CADETSHIP.

Examination of Candidates in Congressman Dunphy's District.

Congressman E. J. Dunphy, of the Seventh Congressional District, announced some few weeks ago that an examination would take place in the near future to test the qualifications of the many enthusiastic young men of his district who were aspiring to military honors. The Fourth Warders were accordingly in a state of great excitement, for there are ever so many young men who are anxious to shoulder the musket at West Point.

The examination was held yesterday in Grammar School No. 21, Marion st. Some 20 young men from the City College and from St. James' School and Columbia presented themselves. A rigid examination in the various branches showed that Mr. F. Dwyer was leading man, with 95 per cent., while his classmate, Mr. J. Duell, had 91 per cent. Out of the first ten men on the list eight were from St. James' School, the sixth and seventh being from the City College.

Friends of Alfred E. Smith, secretary of the Seymour Club, of the Second Assembly District, are quietly nursing his boom for the nomination for the Assembly.

Alfred E. Smith, the orator of the Seymour Club of the Second Assembly District, was a hard worker during the past two campaigns. He is ambitious to become a member of the Legislature and is looking for the nomination in his district. He has announced that he will take the stump for Timothy J. Campbell next year if he is not engaged in a personal canvass.

Alfred E. Smith, the hustling young secretary of the Seymour Club of the Second Assembly District, has won a reputation as an amateur actor. He has played the principal parts in "May Blossom," "The Confederate Spy," "Long Strike" and "The Mighty Dollar," and has received an offer to join the Frohman stock company. Mr. Smith decided that he would stick to politics, and refused the offer.

A HAPPY MAN.—Fred Blauvelt, the big chief of the Enterprise Fishing Club and a prominent member of the Seymour Club of the Second Assembly District, was married on Wednesday evening to Miss Mary Kay, of Brooklyn. Blauvelt is widely known in social and political circles in both this city and Brooklyn, and his departure from bachelorhood will be felt by his comrades. He was a genial companion and the life of many social gatherings.

AMATEURS IN "THE MIGHTY DOLLAR."

Creditable Performance by Members of the St. James' Union.

The members of the St. James' Union gave the first of five performances last night at St. James' Hall, James street near Madison, for the benefit of the fund of the St. James' Free School Society. The play presented was the late W. J. Florence's greatest success, "The Mighty Dollar."

The hall was comfortably filled and the audience was well pleased by the really excellent performance given by the ladies and gentlemen in the cast.

Alfred E. Smith, as the Hon. Bardwell Slote, was very amusing and rendered the numerous speeches of the voluble M. C. from the Kohosh District with good effect. Miss Jennie C. Lace, as Mrs. Gen. Gilflory, and Miss Florence Brady, as Libbie Roy ("Libbie dear"), were vivacious and fully alive to the capabilities of their respective parts.

The Lord Cairngorm of John J. Shiels was perfect in make-up, and Mrs. May Howden Desmond as Mrs. Col. Dart and Joseph I. Fitzgerald as Roland Vance gave excellent renditions of rather difficult roles.

"The Mighty Dollar" will be given every night this week up to Friday. Following is the complete cast:

Hon. Bardwell Slote	Alfred E. Smith
Roland Vance	Joseph I. Fitzgerald
Arthur Lemaitre	Jeremiah F. McCarthy
Col. Dart	James E. Dobbins
Saville	John A. Savage
Charley Brood	John J. Brosnan
Lord Cairngorm	John J. Shiels
Senator Weatherwax	James J. Hanlon
Senator Hogwhistle	P. J. Hassett
Senator Darwin	Dennis McMahon
George	William T. Hushion
Mrs. Gen. Gilflory	Miss Jennie C. Lace
Mrs. Col. Dart	Miss May Howden Desmond
Libbie Ray	Miss Florence Brady
Blanche Mossthorn	Miss May A. Hughes

A number of prominent young Democrats of the Second Assembly District will spend Saturday and Sunday at the Lenox Hotel, Far Rockaway. They will be under the leadership of Alfred E. Smith, one of the most prominent young Democrats in the district. Mr. Smith is an amateur actor of no mean ability, and is the leading man of the St. James Lyceum Company.

DANCED AND MADE MERRY.

Successful Entertainment of the St. James Union.

The most successful entertainment ever given by the St. James' Union, of the Second Assembly District, was the summernight's festival held on Friday evening at Sulzer's Harlem River Park and Casino. The attendance was larger and more select than ever before, and not an incident occurred to disturb the enjoyment of the occasion.

Among the prominent persons present were P. J. O'Dwyer, Rev. John J. Kean, James A. Hayes, James Naughton, Thomas J. Nolan, James J. Donohue, M. J. Nolan, T. F. McCarthy, J. J. Conway, F. F. Murphy, T. F. Daly, Alfred E. Smith, John F. Gilchrist, F. F. Lynch, P. A. Simcox, Francis J. Florence, John B. Cassidy, J. J. McNamara, J. E. McCarthy, Robert J. Roberts, Francis J. Kavanagh and James Campbell.

Henry Campbell, the president of the Seymour Club, which is the anti-Tammany organization of the Second Assembly District, owns about twenty-five tenement houses in the Seventh Ward. He is fond of cycling, but

W. J. Florence as "Bardwell Slote," in the "Mighty Dollar."

A Typical Page from the Wells-Fargo Receipt-Scrap Book, Showing the Entries in Handwriting Under the Clippings

CHAPTER XIV

A Fight for Freedom

The second regular session of the Legislature of his first term was a repetition of the first. It presented the spectacle of a Governor battling for his program with a legislature dominated by the opposite party. He continued his appeals to the people for his program, but favorable public sentiment could not break the crust of the opposition in the Legislature. Outside of the amendment for the consolidation of State departments into twenty, no other reorganization amendments passed. Only his recommendations liberalizing the Workmen's Compensation Law and strengthening their administration went through.

The active subcommittees of the Reconstruction Commission were holding hearings on the important problems of readjustment which were contributing to the unrest of the times. Careful reports were submitted to the Governor on Americanization, public health, housing, and the high cost of foods and the need of reducing the spread between the producer and consumer through a system of wholesale terminal markets.

Much of the legislative session was taken up by the proceedings against the five Socialist Assemblymen elected from New York City who had been expelled. Out of the heat engendered by this proceeding and as a result of a legislative committee's investigation, the Legislature passed three laws designed to detect and convict radicals who were conspiring

to overthrow our form of government by violence, and to prevent their propaganda from sinking into the minds of children. They consisted of a bill requiring principals of public schools to determine the loyalty of teachers, another to require all private schools to procure a license from the regents of the State University and a third establishing a secret service system of espionage in the Attorney General's office. Smith vetoed all three.

The memorandum accompanying these vetoes sounded a note of Americanism greatly needed at the time. It reaffirmed principles of liberty under law which were handed down from Runnymede to the American Revolution. Once again Smith distinguished himself as a veto Governor, this time in the service of fundamental Americanism.

The session ended with little done for his major program on social welfare and reconstruction, but with considerable achievement on non-controversial matters.

The housing situation meanwhile had become so acute that the Governor requested remedial legislation along the lines laid down in a communication signed by the Chairman of the Joint Legislative Committee, the Reconstruction Commission, the Mayor's Committee of the City of New York on Rent Profiteering, the Tenement House Commissioner of the City of New York, and the Secretary of the Tenement House Committee of the Charity Organization Society. This was done and a small measure of temporary relief made possible.

Many hearings exposed conspiracies in the building material industries to raise costs to excessively high prices. These prices tended to prohibit building at reasonable costs. Indictments were found. Court action was forced. Salutary as was this work, it did not stimulate building. Hundreds of thousands of tenants in New York City and elsewhere were forced to pay rents which they could not afford in a landlord's market. The owners took eviction proceedings

against them. The unrest in the Manhattan and Bronx districts of New York was growing. Violence was openly threatened by irate representatives of the harassed tenants. Remedial legislation was urged by responsible judges of the Municipal Courts whose calendars were clogged by thousands of cases. Thousands of tenants were threatened with eviction in October when their leases expired, and they saw themselves on the streets with their belongings and no house to shelter them. Emergency action was imperative to avert this condition. The Governor, therefore, called an extra session of the Legislature in September and in co-operation with the Joint Legislative Committee urged the immediate enactment of the necessary emergency legislation and also pressed for a constructive housing policy for permanent betterment recommended by the Reconstruction Commission.

The emergency laws were passed and it is estimated that 100,000 families were kept in their homes and protected from unreasonable rentals.

CHAPTER XV

His Religion

The references of Governor Smith to Divine Providence impart a flavor all their own to many of his speeches, messages and proclamations.

His belief that man is a conspicuous factor in a divinely providential plan of the universe is at the foundation of all his motives. It is a conviction lodged in the deepest recesses of his nature. His Christianity is a simple faith in God. From it springs his interest in humanity and in the humanitarian labors that make man their beneficiary. He has no interest whatever in theological formulas that divide men but he is deeply attached to whatever spiritual ideas and principles unite them.

No illustration of his point of view is quite so representative as his address at the Protestant Bowery Mission. The temptation to quote it fully is irresistible because it reflects the very soul of the man:

> We are here tonight to celebrate forty years of active work on the part of the Bowery Mission, in a section of this city misunderstood throughout the country, in fact, throughout the world. When this Mission was established there was not very much to New York by comparison with today. The great residential section of this city was south of Twenty-third street. The Bowery was a very popular thoroughfare. It was the natural place for men from other parts of the country, coming to our city as strangers, to find their way, because from the earliest day Park Row and the Bowery contained the "poor man's hotel," commonly known and commonly referred to as the "lodging house."

Forty years ago scarcely any other part of the city offered temporary residential facilities for men who were strangers to the City of New York, so they found their way, naturally, to the Bowery. It would be impossible for me or for any other man to estimate the great good that grows from an institution of this kind in all of these forty years. What does a man need more than the knowledge that somebody is interested in his wefare, particularly if he is a stranger? Bring it home to yourself. It is a hard, cruel world that a man faces, in a strange land far from home and far from friends, if there is not somebody to evince a little bit of interest in his welfare. From my own personal knowledge and my personal observation that has been the particular and special function of this Mission during all of its useful lifetime. While it has catered to the spiritual needs of men it also catered to their temporal needs, to the end that the body may be in that healthy condition that would give the strength, the power, the force and the vigor to withstand temptation.

Our Divine Lord, during his lifetime on earth, preached not only the theory of charity, but by His own action He demonstrated it as an actuality.

In the many cold nights—the cold winter nights—when I came down to the Bowery myself and saw the long line of homeless men, waiting for coffee, and waiting for a sandwich, and waiting for the warmth and the consolation that came from this Mission, I have had men from other parts of the State visiting me in my own home, but a short distance from here, who remarked to me: "That is an institution that while preaching the word of Almighty God is doing that practical thing that makes a man think that somebody in this world is thinking about him."

The Reverend Bishop spoke about the relationship of the Church and State. The Church and the State are divided only in theory. It is a constitutional division, prescribed by constitutional law, but in reality they are one, because what the Church does for the individual that makes him a better citizen—that makes him a God-fearing man—is really the greatest and highest work that can be done for the State. And as I sat in the Cathedral of St. John the Divine, witnessing the very impressive

ceremony that installed Bishop Burch as the Episcopal Bishop of this diocese, I thought of the field of opportunity that was opened to him, to work not only for the State, but for that flag (pointing to the Stars and Stripes), because the man who really and earnestly studies the history of this country and studies it right and looks at it properly must believe that it is God's own country! And he must believe that God kept it hid behind the veil for centuries, while men were spilling each other's blood for the possession of worldly goods, and when He believed that civilization had reached that point, He allowed the bow of the Santa Maria to pierce the unknown seas that the cross might be raised on the Island of San Salvador, and He has kept a watchful eye over it. The student must have read in history how God answered the prayer of the immortal Washington at Valley Forge when he appealed to the Almighty that the Continental army might live over another winter. He must have read in that history that it was the sustaining spirit of Divine Providence that kept the soul in the great Lincoln during the four years of trial in the Civil War. He must have read in that history that the same Divine Providence was behind Dewey; and right here in our own time, when the impartial pen writes the history of this latest war, he will have to read that Almighty God selected this country for the salvation of the civilization of the world.

You must have read in that history that Almighty God intended this country to be a haven of rest and a harbor of refuge for the downtrodden, the poor and the oppressed of every land and if so He must be heart and soul behind the institution that extends this practical idea to those who arrive upon our shore.

It is for that reason, I firmly believe, that He has guided the success of this mission during its forty long years of activity. And it is this feeling within me that makes me feel proud not only as a citizen of the city, not only as a resident of this immediate neighborhood, but as the Governor of this State, to come here and congratulate your superintendent, his force of assistants and everybody who during these forty years have kept this old mission going with so much success and to express to you the hope that it may have years and years of usefulness ahead, not only to the city and to the State but to the Nation itself.

CHAPTER XVI

Re-elected

When election year came around, Smith's renomination was inevitable. He carried on an offensive campaign against his opponent, Nathan L. Miller, on his record. Even Miller publicly said that under Governor Smith, "the affairs of the State were, on the whole, well administered." But the feeling against the Wilson Administration was too strong, and the Republican party relied upon this for victory. Miller made a State campaign chiefly on the national issue.

How Governor Smith was regarded by the voters, the election results showed. In a Harding landslide the Democratic candidate for president received over one million votes less than Smith, who was defeated by a slight margin of 74,000. Such a defeat merely emphasized the ability of the Governor as a vote-getter and enhanced his political prestige. Half a million Republicans split their tickets to vote for him.

For the first time since his young manhood, Smith was free from the burdens of public office. He could devote some attention to the needs of his large and growing family. He went into that trucking business, to which he came so naturally through his father. He became chairman of the Board of Directors of the United States Trucking Corporation. As a business man he proved a success. His personality, his knowledge of men, and his executive ability were

business assets. Men of affairs appraised him as a business-getter and a good executive.

But he was not to be free from public responsibility very long. When the recommendation of the New York-New Jersey Port and Harbor Development Commission for the creation of a Bi-State Port Authority was enacted into law, Governor Miller drafted him to serve as one of the three New York members of the Commission. Smith could not refuse. He owed his state and city too much not to co-operate as a citizen in solving the serious problems of the Port of New York.

To the work of formulating a comprehensive physical plan for the unification and co-ordination of terminal facilities, both rail and ship, Smith made solid contributions. His grasp of the technical problems of transportation astonished engineers and practical railroad men who had spent a lifetime in the business. He was an influence on the Commission for sound and practical solutions as opposed to the dreams of visionaries. When the final plan was submitted to the New York Legislature, Smith bore the brunt of the battle against the parochial opposition of the City authorities of his own party. His speech at the legislative hearing very largely carried the day for the plan.

With the close of the Miller administration, the demand for Smith's return as Governor was heard from end to end of the State. Again it was the upstate contingent of his party that proved most vocal. Smith longed for a rest. But the party was in danger of drifting on to dangerous shoals. This aroused his fighting instinct.

In Smith's view, the Democracy was facing a crisis, caused by the threatened dominance of Wm. R. Hearst in party councils and control. If it yielded to the influences represented by Hearst, it would be dominated by an irre-

sponsible newspaper leadership. This stood for issues based upon temporary advantage, firing mob fury by the methods of demagogy. A firm believer in party government because it was responsible government, he saw that victory for these forces meant disintegration of leadership in the Democratic party. It meant to him abandoning a sound and continuous progressive program for a will o' the wisp radicalism. All this was inconsistent with his conception of sound Democratic doctrine.

Hearst had presidential ambitions. His plans contemplated their realization through a nomination in the Democratic state ticket for governor or United States senator. For months Mr. Hearst used his wealth lavishly to prepare the ground throughout the state for his nomination. He relied upon the Mayor of New York City, his honest admirer, to use in his interest the pressure of power and patronage upon the city Democratic organization. Combined with an upstate organization which he tried to create through high salaried special agents covering every part of the State and by sentiment stimulated by financial resources, Hearst's prenomination campaign was based on no unplausible optimism as to its outcome.

Smith determined that he would, under no circumstances, yield control of the party to these influences. He would not run with Hearst. The odds against him were great. But when he reached Syracuse, the convention city, he found that the upstate delegations were determined to nominate him for governor and to repudiate Hearst.

The late Charles F. Murphy, then the New York leader, sounded out the sentiment of the convention with open-mindedness. Never in his long and stormy career had this veteran political leader faced so delicate a situation. Smith was accused of trying to wreck the party. The pressure of the city government, the earnest plea of the Mayor of

New York with Murphy, personal influences from every direction were used to break Smith's stand. Like a rock he stuck. The Hearst forces crumbled under the immovable resistance of this man of iron will. Hearst withdrew from the fight.

Smith was nominated by acclamation. Hearst had met his Waterloo.

The drama of Smith's fighting courage in the Syracuse Convention of 1920 captured the imagination of the people who gave him 1,397,657 votes and elected him by an unprecedented majority of 385,932.

CHAPTER XVII

In Albany Again

The Governor's social welfare and reconstruction program had been an issue of the campaign. He debated it fully from one end of the State to the other. The voters heard both sides and decided in no uncertain terms in his favor. In the light of that verdict he asked the Legislature to accept his program as a mandate from the people.

Despite the huge majority which swept in the entire state ticket the Democratic Party captured the Senate by only one vote and the Assembly was safely Republican by a margin of six. This result was a practical demonstration of Smith's criticism of the apportionment article, in the Constitutional convention of 1915, by which an easy control of both houses is insured for the Republican Party in normal elections and at least a majority in the Assembly even when the Democratic Party is swept in by a landslide. The territorial theory of representation governing constitutional apportionment in the State of New York has been the most effective instrument for the dominance of the Republican party in the legislature. Throughout his second term, the voters found him battling for his program against the partisan opposition of a Republican Assembly. The Democratic Senate enacted his platform pledges into law only to find them nullified by the lower house. Minority rule frozen into the constitution held sway.

Save for statutory consolidations like the merging of the

Highway Department, the Department of Public Works and the Department of Public Buildings into a new Department of Public Works, a consolidation of tax functions and some other minor consolidations, only that part of his reorganization program in one constitutional amendment consolidating departments and adopting the short ballot passed the Assembly. The Executive Budget and the Four-Year Term received scant consideration and failed to pass.

His social welfare program, like the minimum wage commission proposal and the forty-eight hour law were also defeated in the Assembly. One feature of his housing program was enacted into law, the creation of a permanent State Board of Housing and Regional Planning.

Handicapped by partisan opposition Smith emerged from the fight with a record of constructive achievement in his two terms of which the high lights are briefly summarized.

In addition to passing the constitutional amendment for consolidation of State departments from 187 to 20 for the first time, he vetoed bills sent in by the Republican Legislature depriving people of freedom of speech and action.

He called a special session of the Legislature, 1919, to ratify the woman suffrage amendment.

Called a special election to assure representation to the assembly districts where the Socialists had been unseated.

He called a special session of the Legislature, 1920, to enact the emergency rent laws, thus keeping 100,000 people in their homes and preventing rent profiteering and recommended and passed laws permitting localities to exempt new housing from taxation, to encourage the resumption of building.

He appointed the Reconstruction Commission to draft a social and business administration program for the State.

The repeal of the Direct Primary Law was vetoed by him.

Direct settlements between injured workmen and insurance companies were abolished.

He signed bills for the first adequate appropriations ever made

in the history of the State for the construction and maintenance of institutions for the State's dependents; the insane, mentally deficient, etc., and appointed a Prison Survey Commission acting on those parts of its report which were available before the close of his term, establishing many prison reforms.

He established the administration and building of highways on the highest plane ever known in the history of the State without regard to politics and put the canals on a business basis for the first time.

Disability of women in the Civil Service Law was abolished.

He signed the largest appropriation for education in the history of the State, and increased teachers' salaries by $32,000,000.

The State was protected against any encroachment on its water power rights.

He signed bills approving local option in showing motion pictures and the playing of baseball games on Sunday.

The Children's Code Commission to codify and draft laws relating to all fields of child welfare was created.

A Governor's Labor Board was appointed consisting of three representatives each, of labor, employers and the public, which successfully adjusted or averted many industrial difficulties in the period immediately after the close of the war.

Assisting in the passage of the Home Rule amendment, giving Home Rule to localities of the State. He appointed a commission to study and draft enabling acts to make Home Rule function and signed the enabling act making it effective.

He repealed the law requiring teachers to submit to a loyalty test; and he pardoned political prisoners in the State prisons.

He repealed the law requiring the licensing and supervision of private schools.

A commission was appointed to investigate defects in the law and its administration.

The Labor Department was restored to efficient operation by means of adequate appropriations. It had been practically deprived of activity between the two administrations of Governor Smith.

He passed a bill for public health aid in rural communities, extending the system of Health Department laboratories, and

advocated and secured authorization of a bond issue of $50,000,000 for the construction of State institutions and large additional appropriations to decrease the fire hazards in State institutions.

A State Housing Commission was established.

He aided in the passage of the State bonus to soldiers and initiated and passed an appropriation of $1,500,000 to establish a military memorial hospital.

A system of State parks has been developed and created and provision has been made for a bond issue of $15,000,000 to extend and improve State parks in the next ten years.

He reduced the State income tax 25 per cent and reduced the direct tax on real estate 25 per cent, thus saving $17,000,000 to taxpayers.

A law providing for the licensing of all motor vehicle operators, and establishing a Department of Motor Vehicles for the control and regulation of automobiles has been passed and also a bond issue of $300,000,000 for the elimination of railroad crossings at grade.

A Children's Court Act for the City of New York, and many other recommendations of the Children's Code Commission, strengthening the Child Welfare Laws and extending their operation have been enacted.

Many improvements strengthening the Workmen's Compensation Law, providing for increased compensation and shortening the waiting period were passed and prison industries are being reorganized on a sound and adequate basis.

He made a prompt, personal, public investigation of charges preferred against the State Department of Labor which were all withdrawn. He sponsored a bill creating an Industrial Council composed of representatives of employees and workers to be advisory to the Labor Department.

Far-reaching legislation to develop State water power, retaining control and ownership by the State, and providing for development without the use of public funds has been proposed by him.

He secured transit legislation for New York City, giving the city absolute right to construct, own and operate rapid transit subway lines.

CHAPTER XVIII

An Account of His Stewardship

Smith always had a strong sense of his responsibility to the people and at the close of each legislative session he presented "An Accounting to the People," explaining in detail appropriations made and the reasons for them. These financial reports are prefaced usually by some such statement as will be found at the beginning of the one issued in 1923. "There is nothing less interesting to our people than financial reports because as prepared by bookkeepers and accountants, they are not understandable to the ordinary man. To comprehend them thoroughly, one must have not only an understanding of the government of the State itself, but must be able to comprehend technical terms used in financial reports. For that reason, I will endeavor to explain appropriations of this year in such a manner to make them easily understandable to everyone."

His theory of appropriations is set forth in the same document in its conclusion.

"The State of New York wants to do its full duty to all of its institutions for the sick, the poor, and the afflicted, who are the objects of its special care. It wants to maintain its great public works, its great Department of Education, and perform all of the service it offers to the people of the State at one hundred per cent of efficiency, and it has been my experience that the people of the State find fault only with the wasted dollar and not the appropriated dollar that brings one hundred per cent of service. That a full complete return will be made to the people of this State for every dollar appropriated is the sincere and honest pledge of the present administration."

CHAPTER XIX

His Appointments

It appears to be human nature in the policies of a two-party system where control is divided, for the opposition to obstruct the execution of a program advocated by the representatives of the majority. Party advantage, not the State's interest, frequently underlies the tactics of the opposition. A Democratic governor faces the resistance of a Republican Legislature on his major program and Governor Smith was no exception to the rule. In his contact with the Legislature he had no bed of roses. Resistance by Republican politicians was his normal experience.

In his capacity as executive responsible for the efficient management of departments under his control, a governor's mettle is tested by the way he resists the pressure of short-sighted politicians in his own party. They are chiefly concerned with getting jobs for the faithful. Patronage is their first consideration, equipment for the place is often secondary.

Smith is a firm believer in responsible party government. He was willing at all times to receive suggestions for appointments from party leaders. But he set the standards of qualification for the job and the candidates had to measure up to them. Some of the leaders met the standards. Others did not, and in that case Smith rejected their suggestions. He filled some of the most important places with men who had no political antecedents but just outstanding fitness.

The task of finding first-rate men for important state offices is one of the most difficult a well-intentioned governor faces. Their value is appreciated in private business. The salaries paid by the state cannot compare with what they might earn. A governor must appeal to their public spirit to make the financial sacrifice. A magnetic personality like Governor Smith's was particularly successful in attracting men of high calibre.

Governor Smith has made many promotions rather than new appointments, and those set a standard and goal for men who have been long in the state service. A few illustrations will tell the story, although there are many more instances than those cited here.

He appointed General Goethals Fuel Administrator when the coal strike of 1922 threatened the people of the State with a coal shortage and an equitable distribution of available coal at reasonable prices was imperative.

On the administrative side his appointments showed creditable results. The Highway Department, under Colonel Frederick Stewart Greene, was particularly efficient in substituting durable roads for the political roads of many previous administrations characterized as "more miles, more votes." His one instruction to Greene was, "Do what is best for the State. Rid the Highway Department of partisan politics." In the Labor Department, he appointed Frances Perkins as a member of the Industrial Commission, selecting her because of her expert knowledge of labor codes. In general, he sought and found merit rather than political standing in selecting appointees.

Personally and politically unknown to him, Governor Smith at the suggestion of a group of experts appointed Sullivan W. Jones State architect. Mr. Jones has proven another administrative discovery for the State.

A number of his most conspicuous appointments were

promotions from among men who had a long and honorable record in the department. Upon the death of Dr. Herman Biggs, whom he reappointed State Health Commissioner in his first term, he promoted the first deputy, Dr. Matthias Nicoll, who had a long and honorable record in the service of the Department.

When Adjutant General Charles W. Berry was made Major-General, in command of the National Guard, he promoted General Edward J. Westcott, a Republican, who had a distinguished record of many years as Assistant Adjutant General.

Upon the resignation of Major Chanler, the head of the State Constabulary, he appointed a captain of one of the troops, recommended by the outgoing head.

Even when the office of his private secretary was made vacant by his appointment of George R. VanNamee as Public Service Commissioner for the second district, he named George B. Graves, a Republican with a record of thirty-two years' service in the Executive Department.

To the superintendency of prisons he appointed James L. Long, who had been deputy superintendent and for years regarded by prison authorities as a sound administrator of penal institutions.

His appointment of Bernard L. Shientag to be State Industrial Commissioner was hailed by representatives of the wage-earners and by social workers with approval and enthusiasm. During his second campaign he had promised to rehabilitate the department shattered by a policy of economy, which he publicly condemned as dangerous to the health, safety and welfare of the State's industrial population. His support of his Industrial Commissioner when attacked by the Associated Industries, the manufacturer's lobby, and his prompt and fair investigation, acting himself as Commissioner under the Executive Act, is a

dramatic illustration of how he kept the faith with the people of the State. The charges against his Industrial Commissioner were publicly withdrawn. The investigation served to bring out in striking relief the record of the Commissioner in the work of rehabilitating the department.

In the course of the trial, an episode occurred that gave rise to an extemporaneous statement of his policy. The charges were concerned with alleged delay in disposing of workmen's compensation cases.

His right to question the motive behind the charges was challenged by the counsel for Associated Industries. Governor Smith said in part:

No one has worked more hours in that back room than I have and I think it has been said about me from one end of the State to the other that almost anybody can come here and see me.

No one makes any appointment with me. They come up on the train without making any appointments because they know they can get in and see me anyway. I have a notion in my head that this whole thing was done to create an atmosphere around this building against pending legislation, and if I get that in my mind I am going to satisfy myself whether that is true or not; and inasmuch as all the Directors of the Associated Industries have openly declared in this room that they have nothing whatever to back up any of these charges, it devolves upon the man behind them whose word they saw fit to take on faith, and I think I have a right before we go any further to test the credibility of this witness against the State or any of its departments.

Certainly there isn't anything more political in the Associated Industries than there is in the Traffic Club of New York, or the Merchant Truckmen's Bureau, whose meetings I attended; but they never speak about how nominations ought to be made, and I want to know why Mr. Daly used the name of the Association to create an atmosphere against political legislation.

CHAPTER XX

A Typical Campaign Address

For years now in the local Democratic organization, Smith has been regarded by all its orators as the master of those who know. His methods have been studied by young men who think they are gifted enough to speak to the people on political issues. Smith found his most attentive audience among the attendants at the speakers' bureau, as it is called. These ranks are recruited from among young people who show aptitude for influencing public opinion through the medium of the spoken word. They are the orators of a local Democratic campaign.

His address to these workers became an annual event. It was usually delivered at the outset of a campaign and served as a sort of general instruction to the rank and file of speakers. It not only confined itself to a discussion of the issues. It dealt with the way to handle those issues.

The Governor's speech before the members of the Speakers' Bureau on October 9, 1922, may be considered a typical Smith campaign address. It handles the complicated financial issues of that campaign simply and convincingly. The point is enforced when made through the medium of intimate history. There are references to the reports of State officials which, seemingly clear, could have been made only by one thoroughly familiar with the State government. It is quotable for these reasons alone but its importance arises from the circumstance that it is such a fine instance of the Smith campaign spell:

Time was in public speaking when it was very easy to entertain and amuse an audience with generalities, general statements about the principles of Jefferson, the principles of Lincoln, etc. They were all right in their time, but the men and women who are listening to the campaign argument of today want facts, and they want facts backed up by statistics as far as you are able to give them. It is perfectly easy, as the New York World said this morning in one of its editorials, for Governor Miller in one part of the State to say that he saved $28,000,000, and for Governor Smith to say in another part of the State that he didn't do anything of the kind, but when that is all finished the public is exactly where they were when the argument started because it doesn't mean anything. The papers are good enough to concede that we are both truthful gentlemen; that certainly makes it pretty difficult for the listeners to know which one of these statements ought to be accepted in view of the fact that there is a paltry little difference between us of $20,000,000.

I am going to dismiss this whole economy question with a very short speech. There is a greater issue involved in this whole economy question than the question of dollars and cents. The people would be very little concerned, as The World this morning truthfully said, whether my administration cost a couple of million less or a couple of million more than Governor Miller's, if that was the only question involved, but there is a bigger question, and there is a very great reason why Governor Miller stresses to the exclusion of nearly every other issue this economy one, and it is this:

In 1915 the Constitutional Convention recommended a reorganization of the government of the State. Everybody here is familiar with the argument for the reorganization of the government. It is sufficient to say that the government today of the State consists of some 185 distinct and independent spending agencies. Anybody in this room who read the New York World after last Saturday's convention will remember seeing the headline in the World that Governor Miller called "his two hundred department heads into conference in the Executive Chamber."

The necessity for reorganization has been conceded. Elihu Root, Colonel Stimson, George W. Wickersham, Adelbert Moot of Buffalo, and all the leading Republican and Democratic members of a non-partisan organization have advocated this reorganization of the government constantly since 1915.

On the first of January, 1920, in a very comprehensive message, dealing with the whole history of the State government, I referred to the legislature constitutional amendments to bring about this reorganization. The first public meeting about it was held at the Hotel Astor under the auspices of the Merchants' Association of this city. Present at that meeting were myself and Senator Sage, chairman of the Senate Finance Committee. We debated this question. As a result of our debate, the Merchants' Association approved of it. On the train to Albany I had a quiet talk with Senator Sage. He is a friend of mine of a good many years standing, and I said, "What do you think about it?" He smiled and said, "There is nothing doing on it." He had evidently made up his mind for the Senate months ahead of time. I gave the Senate and Assembly reasonable time to study it out. At the end of a certain period, I started to speak through the State. I went to Buffalo, I went to Syracuse, I went to Rochester, I went to Utica, I went over to Brooklyn and I spoke again here in Manhattan. In every place I spoke boards of trade, business men's associations, women's organizations were unanimous in their endorsement of the plan.

The pressure began to be felt by the members of the legislature. It got a bit stronger than they were able to withstand, and consequently Senator Sage started on a tour of the State, and he went to Rochester and spoke about it. The following day I had a copy of Senator Sage's Rochester speech in front of me and I called a meeting in Albany, and invited him to come over to Chancellor's Hall in the Education Building and discuss it with me before the citizens of his own city, of his own constituency. That he declined to do. I spoke there anyway. The result of it was that in 1920, with the pressure of Root, with the pressure of Wickersham, with the pressure of the big leading figures of the Republican party, the amendments

passed the Senate and passed the Assembly. So far, so good. We left Albany at the end of 1920 victorious as far as we had gone.

In 1921 Governor Miller arrived in Albany with his mind and his heart set against this program, and I say to you tonight, without fear of contradiction, that the only reason why he was against it was because I favored it so vigorously, and because I taunted him with it so much during the campaign of two years ago when he refused to discuss it with me, and insisted upon talking about the St. Lawrence River and Article X. However, he was unable to stop it in the Senate, the pressure was too strong, and the amendments went through the Senate. Then they came up in the Assembly, and after a conference between the Speaker of the Assembly, the Republican leaders of the Assembly and the Governor, himself, the amendments were thrown in the waste basket. A motion to discharge the committee in the Assembly brought out 58 votes of the required 76, and the Speaker of the Assembly was only able to stop the 76 by a personal appeal to stand by him to the different chairmen of the committees he had appointed.

Well, of course, naturally that brought on quite a storm. It would be unreasonable to think that that action on the part of the Governor would not meet with a great deal of resentment on the part of the members of his own party; and they approached him and spoke to him on the subject and his answer to them was that it is not necessary to have constitutional amendments to bring about this reorganization. We can do it without. He had the reputation, he still enjoys it, of being a great constitutional lawyer and a great many of the people interested stood back and gave him a free hand to bring about these improvements and this reorganization of the Government, if it was possible for him to do it, but he knew when he promised that he could not do it. He knew it just as well as I did. So what did he do? He had to smoke-screen the whole performance in Albany in order to satisfy this influential group inside of his own party. He had to falsify the figures. He had to put his name to figures of appropriation that he knew were not right.

Now that is pretty strong, vigorous language—it is the only kind that you can use, because it is right.

The Governor, boasting of his economy, said that he reduced the cost of the Government by $10,000,000. No man can make that statement and expect to get away with it unless it is true. I never fool with a financial statement because I was in Albany too long. I know you can't do that. It's all right at the time, but there comes a day of reckoning. It's all right enough to say the figures don't lie, but liars figure.

The Governor gave out the statement that the total appropriations for the cost of the Government in the first year was $135,000,000. He spread that all over the State—$10,000,000 less than Smith. Smith was $145,000,000. "We had an era of great extravagance and great waste in the Government, and by the application of business methods and by reorganization, by the quick process of legislation rather than the slow method of constitutional amendment, I have in my first year effected a saving of $10,000,000."

What are the facts? Get the Comptroller's report for 1921 and turn to page 229, and you will find on page 229 of the 1921 Comptroller's report the total appropriation is $149,126,507.43. The State Comptroller did not have any reason to be personally friendly to the Governor. The State Comptroller was under indictment while he was running for office two years ago, and the Governor was quite peeved about it, and he didn't reach out his hand to help his friend on the ticket. He did everything to help himself, and the Comptroller realized it and the Comptroller's figures are right.

Now, how does the Governor arrive at $135,000,000? How does he get that $14,000,000 off? Why, a simple process. He undertakes, himself, to say what ought to be counted in his appropriations. Well, of course, any Governor who is permitted to do that can make almost any kind of a record.

You are going out to speak to the people of New York here. Nothing is as dull as figures. You can acquaint yourself with them, but you won't get very far. It is all right to be talking about a few million here or there, nobody thinks about that, they don't remember it more than half an hour after they hear it, but

for the man on the street this is a practical question. If the Governor saved $14,000,000 where is it? Who's got it, and in what way was it reflected? Now if you were at the head of a big business and the superintendent of one of your departments came in and said, "I am just after saving $500,000," the next question you'd want to know is, "where is it?" I think that is human.

Well, let's see where it is. How it is reflected. Who got the benefit of it. The State raises money in two ways, by indirect taxation and by direct taxation. Direct taxation is levied against incomes and against real and personal property. That is direct taxation. Indirect taxation is levied against certain business transactions or against the estates of people who have died. There has been no reduction in any of the direct taxation except one year, which I will explain in a minute. Hold that thought in your mind. The indirect tax is exactly the same with the exception of the automobile tax, which has been increased and the State reached out in the last two years to tax a new industry that has heretofore never been taxed, moving pictures, from which there has been an income of substantially $3,000,000. Well, we haven't saved anything to the taxpayers so far.

Now, where is the $20,000,000? Is it in your surplus fund of the State? In other words, have we put it in the bank for a rainy day? No, we didn't do that, because we took something out of the bank and I will tell you how that was taken out. The Governor claims to have saved the direct tax on realty and personalty in 1922. In 1920 the Legislature passed an act putting into effect the soldiers' bonus that was voted on by the people in 1920. It contained provision not only for the collection of the tax for the bonds for the soldiers' bonus, but contained a provision for the tax on realty and personalty. Immediately after the comptroller sent word to the treasurer of the different counties of the State and told him to collect his direct tax. On these figures the bonus was to be paid. The Court of Appeals handed down a decision declaring the soldiers' bonus to be unconstitutional. The Attorney General immediately advised the Governor that we had enough money in the surplus fund until the Legislature met and there was no need of collecting this direct tax. Mind you, the Governor claims the credit of saving it, and then

sets out to spend it and nothing stopped him but the Court of Appeals. Now the Legislature comes back in session in 1922. In the meantime when he found out that it was possible to get away from that entirely and claim it as a saving he did it, but where did he get the money from. He took it out of the surplus fund. He just went to the State surplus and took that money out of it. Now that represents no saving any more than a man or a woman could claim they saved some part of their salary in a year provided they paid their rent out of their bank account or drew upon their principal. So that when you get finished with it there is no saving.

The State share of the income tax is about $18,000,000. With $41,000,000 of surplus that I left when I left Albany, what could he have done? He could have repealed the income tax and said "that is the way to save money for you. You pay your income tax to the Federal Government, we will run this State without it." But he didn't do that because when you get all finished there was no saving.

One of the very salutary features of the proposed reorganization plan was an executive budget. The men interested in that plan put as much stress into the necessity for an executive budget as they did for the reorganization of the Government. The Republican party promised to the people in the nation in their platform of 1920 and put it on the ground of economy and then denied it to the State. The Governor says, "Well, we will take care of that, that can be done"; and in one of his speeches the other night he actually stood out before an intelligent New York audience and told them he installed a scientific budget system. What he did was to appoint a Board of Estimate and Control made up of the Comptroller, himself, the Chairman of the Finance Committee of the Senate and the Chairman of the Ways and Means Committee of the Assembly. What have they done? They never functioned. Under the law they were supposed to submit a budget the first of January, 1922, and I will personally take the responsibility in any part of this State for the statement that they never functioned, and they never will. That is not the way to control expenditures. Why, these men that are talking about the Governor's scientific budget do not know what an executive budget means.

Now, remember, that I believe strongly enough in democratic government never to be guilty of any utterance that would indicate that I believed a legislative body ought to be robbed of any of its power. I will never stand for that. I look upon the Senate and the Assembly as the people themselves, under our form of government. I want to take none of their power away. I want to leave it with them. But I want the people to control the manner in which they exercise it. Now let's see what I mean by that. If the Governor is responsible to the people for the finances of the State, and the head of a department declares the amount needed to run that department for the next year, why should the Legislature increase it? That is what they do. They never decrease it, they increase it. They can arbitrarily tell the head of a department what he must pay his own secretary. I have known an instance of a department head coming before a Senate Committee and saying, "There is an item in here increasing the salary of a man that I do not desire to increase because his services have not been such in the last year as to warrant this increase, and I am afraid that it will demoralize the whole department," and he was promptly told by the Chairman of the Finance Committee that a certain Senator wanted more money for that man and he had to take it.

Now after all was said and done this so-called scientific budget of the Governor was again prepared in the Legislature. It was prepared under the same influences and in the same manner that it has been prepared in the last twenty-five years. Through its every line it was the subject of log-rolling and of compromise. After the Legislature passes the family budget just the same as the housewife puts down the rent, the gas, the butcher, the baker, the absolutely necessary things to run the house, put that in the bill, let nobody interfere with that, but after that is disposed of, then let's talk about the desirable things that we would like to do with the State's money. In discussing these, discuss them in the open, not when they are clouded in a bill of nine hundred pages. If a man wants to build a bridge over the great Sodus Bay, let him get up before two hundred and twenty-one men and explain the obligation of the State to build that bridge, but don't hide it in a bill that has nine hundred pages in it and that nobody sees until they see the construction

of the bridge beginning. That is common sense. That is good, sensible government. That is in effect, and in a few words, what the executive budget means. Now I must not spend too much time on this, because I have so many other things. However, the point is this, it is not a question of finance or of appropriations, it is a bigger issue—Can a Governor come before the people of this State, and in order to silence a disappointed group misrepresent to the people of the State what are the actual financial facts, and what are the real figures?

That is exactly what has taken place, and to my mind it is an issue infinitely greater than whether there was $1,000,000 difference between us or there was not. As a cold matter of fact, reduced down to figures, the difference between my last year and Miller's first year is less than $200,000, although he ran into a period of falling prices. I bought sugar for the inmates of the State institutions at 25c a pound. He came in when he could buy it for 5c. Clothing, supplies, medicines, everything that is needed, everything that the housewife buys is bought for the State, and was bought in 1919 and 1920 when the cost of these supplies was at the very peak in the history of the State. Now I will pass from that phase of it to something else.

The Governor, the other night, made a speech, and there is no doubt that he will make this speech in New York City, because he may feel that there it will have a special appeal. I want to give you the facts so that you will have them and be prepared to answer. The Governor says that the Smith up-State Public Service Commission increased car fares. In the first place Smith never had any up-State Public Service Commission. During my whole time I appointed two men for that Commission out of five, and I don't think that any Democrat in this State can ever feel ashamed to stand behind the record of Judge Kellogg, of Glens Falls, and George Van Namee, of Watertown, because two straighter, two better and two more clean-cut men do not live in the history of the political life of this State. So that nails that assertion right away. Smith had no up-State Public Service Commission. The other three remain-

ing members of it—Judge Irvine, a Democrat, appointed to office by a Republican, never came to see me in the two years I was there. The other two men were Republicans. It is true that they raised car fares, but they had their choice between raising car fares and no transportation. The small cities up-State have entirely different problems from those we have to deal with down here. There is usually one railroad in a small city and in nearly every instance the rate of fare was a part of the franchise, and the Public Service Commission refused to act on it until the properly constituted officials of the city themselves came before the Public Service Commission and joined with the railroad to the end that the cars may be kept running. Now that is the cold matter of fact about it and they can talk about it as much as they like.

As far as the telephone situation is concerned the Public Service Commission in 1919 before Van Namee was appointed reduced the telephone rate. After the reduction was made the Bureau of Women in Industry in the State Industrial Commission, in response to widespread complaint throughout the State about the telephone service, made a survey throughout the State, and they brought pressure to bear for an increase of salary for the girls who were operating the telephones in the State. The figures necessary to do it were brought before the Public Service Commission and the Public Service Commission was placed in the position of either granting that increase or of turning to the Bureau of Women in Industry and telling them that these girls had to remain working at a salary that did not keep them in decent health and comfort.

That is the answer to that.

Don't let anybody on the stump from the other side say anything to you about the local Public Service Commission trying to raise the fares down here. That is 99.99 per cent. pure bunk and I will tell you why. They couldn't do it. If they could do it, why did Miller amend the law so as to permit his Commission to do it? He didn't have to bring down upon himself the condemnation of a united press. He didn't have to arouse the wrath of the City Administration and the people of New York City by taking away from the Board of Estimate the control

over their contracts if the power already resided in the Public Service Commission to do it. Now that is the real fact about it.

There probably never was, in the history of legislation in this State a more brutal and more wicked invasion of the home rule rights of the citizens of a great community than the Governor's transit bill. What newspaper condemnation did he escape? Newspapers that have devoted their columns to promoting the success of the Republican party since the Civil War condemned him for it.

The only reason he did it was, the power did not reside in any State official to change the provisions of that contract and the five-cent fare is a part of the contract. He knew that and he transferred that power from the City Hall to the Public Service Commission and then he says that Nixon, my appointee, wanted to do it when he knows himself as a lawyer and as a former judge that Nixon couldn't do it. If Nixon could do it he was a terrible fool to change the law, because he could have let his own Commission he appointed after Nixon do it without bringing all this condemnation on himself. What did he recommend?

It would not do for us to go through this campaign finding fault and talking about the other man. We must have a constructive side. We must be prepared to say what we are going to do.

Now, what is our platform plank? I don't remember the exact language, but I read it over several times, and I know what it provides. It provides for a very radical change in the State's policy of dealing with all public service commissions by transferring that power to the local authorities. Now what is wrong about that? The Republican party will never take the position that that is too much home rule because they're promising that.

On July 1, 1907, the State of New York embarked upon the policy of regulating public utilities through a commission. Legislative power was granted to this commission. Every man, woman and child in the State knows that it has been unsuccessful, not only in New York, but throughout the State. The people themselves in every large community have resented

this exercise of power from Albany because they look to their local authorities.

Can any great mistake in policy be made by relieving us of the transit commission in time and delegating the State's power to the elected officials in the Board of Estimate and Apportionment to regulate public utility corporations? If anybody challenges that statement ask them this question: say to them, give me one reason, just tell me one reason why the State of New York ought to build a railroad in the City of New York any more than it ought to build a sewer or a bridge. It is the only city in the State where the State does do it.

They will answer it by saying this is the only city that has a partial municipal ownership of any utility. That is not a complete answer because the principle involved is what we are talking about and if Rochester or Syracuse to-morrow made up its mind to build a subway I'd like to see the man that would have influence enough in Albany to induce that community to let the State build it for them. It couldn't be done. Now there is a little story behind this construction of subways by the State down here.

In 1907 when Governor Hughes put through the Public Service Commission he didn't like that. That question was put to him very forcibly, what right has the State got to be building subways in the City of New York. Why not give that power to the City of New York?

He was on the point of sending that bill back to the Legislature for amendment turning that power over to the Board of Estimate and Apportionment as far back as 1907, and he was advised by the leaders of his own party in the Senate and Assembly, that he had better not put the bill in the Assembly because there was a great deal of opposition to it, and it might fall to the ground. He said to one of the Senators who was helping him with the bill in the Senate, "I suppose I will have to take this as it is, but it is wrong in principle."

Now, we have had a wonderful picture drawn for us of Governor Miller. He was himself in his first year there in his true colors, and he wore his own clothes and did his own think-

ing, and that is the year that every reactionary proposal that he stood for got by him and got by the Legislature.

Up in Poughkeepsie the other night he talked about my idea of representative government. One of the fundamentals of the Constitution guarantees to peaceable citizens the right of assembly and to petition of the Governor. A group of women went up to the Governor to petition the Governor for an eight-hour day law and a bill for maternity and child care. His reply was that they were a menace to the community. He has never denied it. He repeated it the other night. But when the second year rolls around and he has to make an account of his stewardship he has a different group of advisors around him. He changes the picture a bit. He must now become a welfare Governor. Here in his second year he poses as the welfare Governor and says he did something for the children and the women in his maternity bill. Why he didn't do a thing more than he had to do. The Federal Government put it up to him. "Will you match the appropriation of the Federal Government for maternity aid?" and he said, "No, we'll have our own maternity aid," and he appropriated $130,000 to help them. Maternity aid! They appropriated $200,000 for the propagation of fish. He put them into springs of the Adirondacks, and we got $130,000 for maternity aid, and Senator Davenport from Utica on Monday night, with his cut-a-way coat and a big long shoelace on his eye-glasses stands up before the Assembly and talks about the eight hundred women in the State outside of the City of New York who died in one year from child-birth.

In 1919 I presented to the Legislature a comprehensive plan dealing with the whole question of maternity and child aid by offering to the counties the money of the State to match what they'd put up for the erection and maintenance in every county of a health center. It came to me from Dr. Biggs of the Health Department. They threw it in the waste basket. Who is responsible for the eight hundred mothers that died or the sixteen hundred rather that died in the two years since they threw that bill away.

He claims the extension of children's courts. Why, bless your soul, he had to do that because it's an amendment to the Constitution that we adopted last fall. He didn't think of it in the first year, he did it when the people of the State of New York by constitutional amendment told him to do it, not a minute sooner.

Compulsory extension of the boards of child welfare is all right. It was recommended under me and thrown into the waste basket at that time by the Republicans.

He talks a great deal about party responsibility. What about the black, unspeakable record of his party during the two years I was in Albany? How about that? Any reduction that he actually made in any department of the State that he claimed so much credit for in his speech of acceptance, I recommended to a Republican Legislature and they refused to do it. Why aren't they carrying around a little bit of the odium of passing these things up as long as they want to talk party government?

I will take the responsibility for the Democrats, the men of my party. We stood behind every progressive measure in those two years, and did our best to force them through. Some of them passed the Senate only to go to their death in the Assembly. Among them was the eight-hour law, the minimum wage law and bill for water power development under State ownership.

All of a sudden the Governor has taken a great interest in labor in this State and labor wants one thing. It wants a proper enforcement of the existing factory code. It's the best factory code in this country. All that labor wants is its enforcement. But that is just exactly what labor is not getting; because the appropriations for that department were so curtailed and cut as to render it practically ineffective. Now what good would the penal law be if we didn't have any policemen? You might just as well not have it. It costs the citizens of this city about $25,000,000 a year to enforce the penal statutes. The State of New York has its great labor code, but no enforcement. It has exactly what the lobby wants that comes to Albany every year representing the manufacturers.

You can write all the nice laws you want protecting the workingman and the lobby won't say a word, but just as soon as you try to put up the money to enforce it, that is different and the comparison of appropriations will show that Governor Miller stripped that department by very nearly $1,000,000.

Workmen's compensation is something that workingmen are interested in, both men and women. Under the guise of a reorganization and behind the smoke screen of rebuilding the department, what happened? There was written into the Workmen's Compensation Act again, after all the labor we had to take it out, that vicious clause that permits the insurance companies to deal directly with the injured people.

I submit that there is the meanest thing you can do, to leave poor unfortunates, and for the most part, people ignorant of their rights under the law, at the mercy of the great insurance companies for immediate settlement, while the wolf of hunger is stalking at the door-mat and sickness and death may be in the house. In 1915 a member of the Assembly from Chautauqua County stood up on the floor of the Assembly and said that he met during his vacation period a representative of a great insurance company and that representative told him that if the Republican party won they were going to write a direct settlement clause in the compensation act. They came down to Albany and they did it.

They did it after two or three weeks of the worst fighting that ever happened. The Republican members of the Assembly were brought into the caucus and the party whip was applied, not from Albany, but from the seat of power, from where the nomination came and the home leaders of the different Assemblymen were called on the long distance telephone and the whip put to them to pass that bill providing for direct settlement. I appointed a Commissioner to investigate and he laid before the Senate the names and addresses of the men and women in this State who were cheated out of what belonged to them under the law by the operation of the direct settlement clause. Why the Senate and the Assembly were unable to stand up under it.

It was an argument that nobody could answer.

The result was that we were successful in taking it out, but back in again it goes in 1921 under the guise of a reorganization of the department. That is the service that has been rendered to labor by the Governor and he, in his new position, wants to be known as a welfare Governor.

I'd like before I finish to ask anybody here if they want to ask me a question. Probably we could bring something out in that way. Anything that you have any doubt about connected with the State Government or the campaign as far as it has gone.

If not, I would make this suggestion, that at any time during the campaign if you see any statement that doesn't seem to fit in with what I have talked about tonight I will be glad to communicate with any member of this Bureau if they just come to me with the story or get it to me. I will answer it myself for you, and I will give you the facts because I would be entirely unwilling to make any statement here tonight, knowing that you are going out to make that statement after I do, unless I know it to be absolutely right. I only ask you to say what I say myself and what I promise I will back up before anybody and before the world.

Question: What about the Lusk Education bills, Governor?

Mr. Smith: Very important. The Lusk Education Bills. This is something you ought to know because when Governor Miller talks representative or group government here's where you can nail him to the mast, and he hasn't got a chance of escape. Is it representative government; is it democratic government, for the State to subject the great army of school teachers of this State to a test as to their loyalty to the country? Why nothing of that kind was suggested in Prussia in the days of Prussian autocracy when the military meant everything.

No group of citizens engaged in the important business of teaching the youth, moulding the character of the future citizen, would be subjected to that inquisitorial power through State agency.

I will tell you what the law does. They send to the principal of a school a blank sheet of paper and require him to put down the names of the teachers under that principal and the principal is to check off the ones he believes to be loyal, to check off the ones that he is doubtful about and to check off ones whose disloyalty, in his opinion, there is no question about. They will tell you that that doesn't become public property. My answer to that is that there is no official document in this State that is not public property. You may try to keep it hidden away, but you can't do it, and you shouldn't do it, and you shouldn't be permitted to do it. The principal's list goes to Albany to the Board of Regents. Isn't that a nice situation? Isn't that a wonderful bill for a Governor to accept who talks about representative government?

To take the opinion of some one person about some other person's loyalty to the country? And the greatest sin of all is that the accused person, accused by his immediate superior as a matter of State record, is never given an opportunity to dispute it.

Equally pernicious and equally vicious is the bill requiring the licensing of private schools. Let that be carried to the final extremity and look at the opportunity there is for the exercise of bigotry throughout the State that could never be countenanced at the present moment in this enlightened age and generation.

The two Lusk Bills were the outgrowth of a political brainstorm that hit the Senate and Assembly and to devise these wonderful safeguards against the enemies of the country we spent about $200,000 in counsel fees, and a great army of men lived in royal splendor at the Murray Hill Hotel for the best part of the legislative session, while the theatres were in full blast on Broadway.

I feel I have encroached upon the time of the other men by talking more than an hour, but I am full of the subject and I want to have you feel the same way and get the same notion and idea that I have, and I can only repeat that at any time during the campaign you hear of anything that shakes your

faith in anything I have said or has to do with any administration, just get in touch with me right away, and I will straighten it out.

I am thankful to the committee and thankful to the Speakers' Bureau for bearing with me and I will ask the other speakers to excuse me if I leave right away because I need a clean, dry collar and a bath.

CHAPTER XXI

His Campaign Spell

Smith's campaign spell is bound up with his personality. On the stump his speeches are heart to heart talks with his audiences. He never indulges in cant. His phrases have the simplicity and the freshness of the man himself.

Smith dictates every important speech to his stenographer. He prepares by outlining what he wants to cover. He makes sure that all the material is at hand. During a campaign when he is forced to give the newspapers advance copy of what he is going to say, he will dictate his principal themes for the address of the evening. When the address is typed he will ask for a copy, read it over and prepare the famous envelopes.

He will take a sheaf of legal size envelopes and on each, with a particular lead pencil with a very thick lead, write in his own hand, the topic head with a few sub-heads as reminders of the points he wants to make. Each envelope is devoted to one topic only. If he wants to read a document he has it in a convenient file folder. He personally checks over his material to make sure that what he may need to emphasize a point or answer a question, is at hand. Then he is ready.

With the envelope on the desk, he will often repeat his dictated speech, so uncanny is his memory. Newspaper men who have followed him from their advance copy have marvelled at his capacity to keep to the text from the headings on his magic envelope. Often, however, Smith

is at his best in repartee, in answering interruptions and in making a sally at his opponent from some local last minute references which he could not anticipate in his prepared address.

His eloquence comes not from his voice, although that is resonant and large, nor from his gestures, free and vigorous as are these. His arms swing from somewhere near his heart. He bends forward at times like a perspiring evangelist and talks into the very depths of his hearers' souls. His is a persuasiveness which comes from something about him that compels confidence. His gestures, his words and his thought are all parts of that unique whole—the Al Smith personality.

But at more formal gatherings of trained minds or before a Chamber of Commerce or a group of experts, this man of the people presents his subject with a consecutiveness of thought, an ease of manner and an absence of gesture characteristic of a lecturer rather than of a campaigner. The response from such an audience is just as effective if less demonstrative than from a popular meeting.

He has an instinct for the style that fits the occasion. While his informal manner on the stump is vigorous and forceful, his dignity on other occasions is equally natural. His friends have called it "The Governor's university manner." But it is less a manner than an outward expression of that sense of fitness which has made him in his official capacity as Governor, "every inch His Excellency."

Nothing is easier than citation of chapter and verse by way of illustrating his characteristics as a speaker. For example, early in the 1923 campaign for the Assembly, the Republican Women's State Executive Committee issued a circular entitled "Give the State a Chance." It was a severe arraignment of the Governor's record and charged him with increasing appropriations by $23,000,000. At a meeting of the

Democratic State Committee on Friday evening, September 28, the Governor spoke. Displaying the circular to the audience and reading from it, he proceeded to answer the statements made. The following excerpt is given as an example of his method of polemic on the stump:

At the close of the Legislature I put out a statement in which I dealt with every item of the appropriations made last winter. If a person will only train his intelligence on this for a minute he can see how ridiculous it is. The Assembly was in the hands of the Republicans. The Governor cannot appropriate any money, and every dollar of the $165,000,000 had to have the approval of the Republican Assembly before I could sign it. You don't need to go into any detail about it. Just take the common sense of it. In the statement I put out I coupled it with what in my opinion was a challenge to debate that appropriation bill with anybody in the State of New York. If they didn't take it or understand it to be a challenge, I put it forth tonight as a direct one.

The next thing is interesting, too—"He doubled the tax rate." That isn't true. Whoever told that to the ladies should have told them this—that I put back into the direct tax the amount that Governor Miller deducted from it, because Governor Miller, when he deducted it, took the $22,000,000 out of the surplus. You can't take it out twice. Let me say for their benefit that it would not make any difference who was elected last fall, the mill and a half would have to go back on the direct tax because the surplus of the State only stands one draft as big as $22,000,000.

Here is an old worn-out joke: "He had put on the payrolls five hundred and twenty-five new jobs for Tammany henchmen." That is getting played out. A statement of that kind in this enlightened day and age is an insult to the intelligence of the people of this State. There isn't a man or a woman around Albany who doesn't know that the contrary of that statement is true. I know it because I know how hard it was to do it.

"And he raised the pay of 1961 Tammanyites." Why, there aren't that many people on the payroll of the State outside of

the institutions. Of course, what they meant was that all the nurses, and all the attendants, and all the kitchen help, and all of the people that are charged directly with the care of the insane, got an increase of salary. According to my Republican lady friends, they are all Tammanyites—even those up in Gowanda Hospital in Buffalo!

There's one statement they make that has a humorous side. You know, I can't think of anything so depressing as public office if a man is without a sense of humor. It must be awful. I know I couldn't stand it. It's the little amusement I get that compensates for a great many headaches. Think of this one: "He seeks a four-year gubernatorial term elected in the even off years when the Republican party is not choosing a President."

So it's the Republican party, and not the people, who chooses the President, Smith exclaimed.

In the Fall of 1923, the Democratic women, conscious of the need of political education along broad lines, conceived the plan of establishing a School of Democracy in which women irrespective of parties were invited to participate.

The school offered lectures by prominent Democratic authorities on the principles of the party, the problems of the practical workings of the City, State and national departments of government. General political questions were discussed by experts as well as political issues of interest to the voters. This institute of politics attracted women from many states. Over three hundred of them registered and took an eight weeks' course in the Hotel Commodore. The last address was delivered by Governor Smith. The demand to hear him was so great that the "school" moved to the Town Hall to hear him.

This address illustrates Smith's way of driving home an argument with the aid of history. It is also a characteristic defense of his social and progressive policies advocated by him in the Legislature in the Constitutional Convention of 1915 and as Governor.

I shall speak of the essential difference in this State between the two parties, as I have viewed it in my active political career, which dates back over twenty years.

Let us take up one at a time the great subjects of public interest, and let us compare the attitude of the parties; and when I speak of this I speak according to the record, and nobody can dispute it. If there is anything I say from this platform to-night that anybody desires to dispute, let them come up on this platform at any time they choose. I will be here.

No. 1.—The Income Tax. What is the record of the two parties? The income tax amendment to the Federal Constitution was submitted to the Legislature of 1910, then under the complete control of the Republican party. And what did they do with it? They rejected it. They were unwilling to say that great wealth ought to bear its share of the burden of government. They were unwilling to subscribe to the indisputable principle that he who benefits the most should pay accordingly.

Governor Hughes was then in office as Governor, United States Senator Wadsworth was the Speaker of the Assembly, and the proposal to ratify the Federal Income Tax was defeated in the Assembly, which was under Federal direction and under Republican organization command in 1910.

You see how easy it is for me to issue the challenge, because I just quote history. It cannot be disputed. In the fall of 1910 a Democratic governor was elected and a Democratic Legislature was elected, and in the spring of 1911 the amendment to the Constitution providing for the income tax was adopted by the State. There cannot be any dispute about that. Nobody will deny it—it is history.

What position would the country have been in in her hour of trial, in her hour of tribulation during the war, if she was denied by the provisions of her own Constitution the power to levy an income tax against the people who could best afford to sustain the country? And so far as the record of that particular subject is concerned in this State, it is distinctly a Democratic achievement, as against a reactionary performance on the part of the Republican party.

No. 2.—Direct Election of United States Senators. That

amendment came to this State for ratification in 1911 and was bitterly opposed on the floor of both Houses of the Legislature at Albany by the then Republican minority. It was adopted and the State of New York was put squarely on record for that progressive measure by the votes of the Democrats in the Senate and Assembly, against the forceful and vigorous opposition of the Republicans. About that there can be no question.

After some great constructive reform is achieved there are always a great number of people looking for the credit. In view of the history, how can anybody deny to the Democratic party in this State the credit for putting the State of New York in line for enfranchisement of women? You know, there is a funny little history goes with it that I think I ought to tell you. I ought to go back a little bit—back further than the twenty years I spoke about.

Prior to 1894 there was nothing in our Constitution in this State prohibiting women from voting. It was in the election law, the statute law of the State. The Constitution was silent on the subject, but the statute law, known as the election law, contained certain qualifications for voters, and among the qualifications was that a voter must be a male. Roswell P. Flower was Governor, and there was a bill passed in both Houses of the Legislature striking the word "male" out of the law. It came down to the Governor, and it lay on his desk for quite a little while. Wonderful pressure and wonderful influence was brought to bear on him, and he did not sign it, and it was lost in what is known as the omnibus veto among thirty-day bills.

The following year the Republicans, in full and absolute control of the Constitutional Convention, took from that experience a warning, and it was they who wrote into the Constitution of this State the word "male." It was the Republican party that by constitutional law for twenty years prohibited women from voting in this State. They were in power from 1894 right through to 1911, and during all of that period a proposal to amend the Constitution could never even be reported from the committee for discussion. When it was reported it was pursuant to a Democratic platform plank which promised the people of this State that they would submit the question, and I was the Speaker of the Assembly that handed down that report of the

Committee on Judiciary, offering to the people of this State the opportunity to pass upon this question.

Look at the returns of the election of 1917, and study out the political situation in the light of neighborhoods. It is a matter of fact, it is a matter of history, that cannot be disputed, that the votes to carry the amendment enfranchising the women came from the sections of the State that for half a century have been known to be strongly Democratic.

I have said in the course of political debate time and again that every big constructive reform in the government of this State was put through under Democratic auspices. Let us prove it by dates and facts and by figures. Taking them, not necessarily in the order of their importance, let us study the history of the Workmen's Compensation Act. That policy of the State placed New York State in the very forefront of all the States in the Union which had a constructive, intelligent and progressive Workmen's Compensation Act. Who passed it? A Democratic senate and Democratic assembly, and it was signed by a Democratic Governor. Our Republican friends went through the motions of investigating the subject—a popular Republican pastime.

Investigate things, but don't do anything about them. Sometimes the report of the Committee satisfies the clamor and the appetite of the people for a little while, but meanwhile another year passes over us and as long as nothing happens everybody is happy. That is the characteristic standpat policy of the Republican party in this State. The Legislature convenes on the first Wednesday in January and the Republicans are exceedingly happy if they can wind it up as soon as possible, so that nothing happens.

It is a matter of history and of common knowledge that during the administration of Governor Hughes in this State the Republican party was torn from stem to stern in a bitter fight over whether the people would make nominations for office or the bosses would make them—and the bosses won. Governor Hughes left Albany on the first of September to take his place on the Supreme Court bench at Washington, and when he left the capitol he said, "Thanks be to Almighty God."

He was not running away from Democrats. As a matter of fact, there were not enough of them up there to hurt him. But he was running away from a mess within his own party. They investigated direct primaries and they talked about them. They fixed the appropriation bill so that the investigating committee would have the expenses of their trip to the Western States paid by the State, whether the Governor liked it or not. This brought about an interesting episode in the State's history. The Governor struck out the appropriation for the traveling expenses of a committee that was going to investigate whether or not the enrolled voters ought to make their own nominations. He struck it out of the appropriation bill, and then he heard that the committee were on their way and had actually proceeded. He sent for the Deputy Comptroller and he said, "Are these men paying their own expenses?" "I don't think so," was the reply. "Well," he said, "that's funny, because I took that item out of the appropriation bill." And the Deputy Comptroller said, "Well, you only took it out once, and it was in twice." They were bound to investigate it, and of course the theory of investigating it was to be sure to bring back a report that it was not any good.

Which party gave to the people of the State a thoroughgoing direct primary bill—a primary bill that opened up the door of party to the enrolled voters and turned its machinery completely over to them? The Democratic party in 1913. It rested on the statute books until 1919. The first assault upon it was made while I was Governor, and one day there came down to me an amendment to the election law providing for the restoration of the convention system for the nomination of Supreme Court judges. So I sent for one of the Republican leaders, and I said, "What does this mean?" "Well," he said, "You know it's all right, Al, on these strictly political nominations, but when it comes to selecting judges of the Supreme Court," he said, "you know a few people can always do that better than the mob." I said, "Is that so?" "Well," I said, "that is just exactly in direct opposition to my notions about it; because if there is one official that the people themselves ought to nominate as well as elect, it is a judge. If you brought that down to me and stated

that with reference to an Alderman, or an Assemblyman, there would be a chance for you, but the very reason you have given is the reason why I won't sign that bill."

Flushed with the great victory of 1920, carried away by that million one hundred thousand, intoxicated with the notion and the thought that they had broken into the solid South, feeling that the trend of thought and public opinion was going to be their way for another generation to come, they went up to Albany and emasculated the direct primary bill and gave us back the convention system, not only for judges of the Supreme Court, but for all the officials running statewide, and it enabled the Governor to take control of the convention and declare whom he would permit to run and whom he would not.

The characteristic exemplified by Smith here is clarity—a clarity which makes him a master of exposition. His theme here is ordinarily involved by political speakers in clouds of figures. Smith can deal with figures, with his prodigious memory, but he conveys inferences from them to the most mixed audiences with scarcely an effort or rather with no trace of effort. Nor should it be thought that the forcible quality of his language here and there is attended by any loss of dignity.

Smith on the platform is an impressive figure because he does not lose dignity, but it is never the stiffness, the pomposity and the heaviness usually associated with the idea. The dignity goes along with earnestness—the speaker is so tremendously impressed, so sincere and so charged with his theme that he makes it no less important to an auditor than it is to himself. The humor, manifested at every phase of the argument, is really incidental. Hence a Smith speech is unique in that when read it seems to reflect a far less serious treatment of the subject than his hearers thought it. The clarity of the exposition, however, is always delightful.

In the next part of the above speech Smith dealt in the same trenchant way with Child Welfare and Labor Laws,

the legislation arising out of the Triangle Shirt Waist Fire, and the shocking conditions under which women and children worked in the canneries in the State.

The Republican clamor against the fifty-four-hour bill for women engaged in industry was, "Industry will leave the State, it will go over into Connecticut and it will go over into Massachusetts, or it will go into Canada." They were unduly solicitous about manufacturers. We passed the fifty-four-hour bill. None of them left this State.

Another one was the bill that abolished night work for women. That statute was declared unconstitutional in this State in 1904 by the Court of Appeals, upon the theory that it interfered with a woman's liberty to contract for her labor. In other words, she can do anything she likes in the way of contracting to work. Why, nobody ever thought from that section of our Constitution—it is taken from the Federal Constitution—that liberty ever was intended to mean the liberty of contract, when that contract was against the public health or the public welfare. That kind of liberty meant the liberty of the person or the individual, as long as he lived within the laws, to move around and go wherever he liked and do what he pleased—if he violated no statute. The same law, limiting the hours of labor, the identical one, was sustained in 1914, ten years after, by the very same court. In the opinion the Chief Justice took occasion to mention that the court sustained its constitutionality because a report from a Commission of the Legislature laid before that body indisputable evidence that working in the night time was injurious to the health of women, and the health of women was the greatest asset that the State could have.

The prohibition of women working in foundries, the one-day-of-rest-in-seven Act, every one of these bills and every one of these laws was written on the statute books of this State by a Democratic Legislature and signed by a Democratic Governor. Did they remain there peacefully? No. It has taken real Democratic effort and real Democratic fighting in all the period since 1913 up to today to keep them there. The one-day-of-rest-in-seven has been compromised with so much that there is

very little of it left. An attempt was made even in 1920 to weaken the night-work law for women. And I remember it distinctly. A man from an interior part of the State that is made up entirely of farming communities, and practically no factories in it, introduced the bill. Some of the newspaper men came down to speak to me about it, and I said, "Well, it is impossible for me to imagine what he can possibly have in his mind. He forgets entirely that I am the father of this particular Act, and that I put it on the statute books, so far as the lower house in Albany is concerned; and if he has an ounce of brains he ought to know that I would let this Capitol crumble around me before I would compromise with this principle in the slightest degree."

I appointed a commission in 1913 that studied first, and afterwards proposed, the Child Welfare Act. We took a progressive step that has been followed by other States in the Union. We took the unfortunate child which had been the beneficiary of charity through institutional training and we provided a system whereby that child remained home with its own mother and she instead of the institution became the agency of the State to protect it. Did that beneficent measure have Republican support or Republican sympathy? No, the Republican leader of the Assembly in arguing against it reached over the aisle to me and said, "What about the grass widows, and what about the children of the drunkard?" That was his conception of it. That was the Republican idea of it, and that it was paternalistic. If it is to be done at all, they said, it must be done as a matter of charity—not as a matter of State duty, which was the Democratic idea and the Democratic policy.

Somebody may raise the question that Democrats only thought of these things, that they did not think of business. That is not true. The present banking code was enacted by the Democratic Legislature of 1913. That has been time and time again referred to as the most progressive act of its kind probably in this country.

I am going to anticipate from the audience a very natural question—this question should, I presume, particularly come from our visiting delegates of other States. The question is

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this: If everything that you say is true, how do you account for Republican success in a State like this? That is a natural question. I will answer it for you. The answer is this: The Republicans have a world of money, no end of it, and they can draw it from all the four quarters of the State by a single motion. And they know how to use it. They maintain in Albany a press bureau, and that press bureau circulates, broadcasts throughout the State, into all the newspapers, even to the very point of supplying the paper with the set-up type, ready to print.

We know the power of propaganda. Democrats know how it was used in 1919 in this country. I heard Dr. Wise from the platform of the Wieting Theatre in Syracuse make the statement that the very day that Woodrow Wilson put his foot on French soil there was a newspaper of the Republican National Committee which started to discredit its own President at a great crisis in the country's history. There is no doubt about that, and what was published in papers in this country was suppressed in France. France had a greater regard and a greater respect for the leading representative of the greatest country in the world than the country itself had.

The Democratic party has the great numbers and the great crowd, but look how often they are led away from home by false stories that come as a result of paid propaganda, the result of actual payment in money to misrepresent. Nothing strikes as forcibly at the foundation stone of democratic government as a wilful and deliberate misrepresentation of facts. A man who cannot win any other way has not any place in the public life of this country; if he cannot win on the record and on the facts, he ought to stop. Because if you carry misrepresentation to its logical conclusion, in the final analysis it means that the greatest liar becomes the greatest man.

Something was said earlier in the evening about women being naturally Democrats. I think the twenty-year history of the performance of the two parties in this State could well be put out, as abundant reason for asking women to affiliate with the Democratic party.

In conclusion, and summing up in a few words, and viewing that record, having in mind that history, it is just this: It is

the point of view with which you approach a thing—the Republican party in this State by its history and its record believes that law in a democracy is some divine and eternal thing that is designed or prepared to protect money, whereas, on the other hand, the Democratic party believes that law in a democracy is the expression of that particular thing that does the most good for the greatest number and goes the furthest to relieve and to protect and care for the great mass of the people who, after all, make up the country.

CHAPTER XXII

The Executive Budget

Smith's interest in what Albany so vaguely terms budget reform—the dullest of characterizations for the liveliest of themes—began in the Legislature.

Its first public manifestation is to be derived from the records of the constitutional convention. This body had appointed a committee on State finances, and in that committee there was warm debate on the subject of an executive budget. Should such a thing be introduced into the State Constitution? Might it not be best to ignore the topic by not reporting back upon it to the convention at all?

One of the most closely reasoned and cogent reports of the whole convention advocated an executive budget and it was presented by Henry L. Stimson, who had been Taft's Secretary of War. Smith followed Stimson in dealing with this budget problem. In an address manifesting perfect mastery of the intricacies of it all, he showed that the executive budget—as then submitted—failed to take into account the chief cause of extravagance in the State government—the absence of a check upon the passage of local and private bills. These were too often passed to favor representatives (chiefly from up the State) whose political life depended upon keeping pre-election promises to obtain State appropriations for local improvements. Smith's citations of such bills and his satirical comments on them tickled the risibilities of the convention and pricked the knowing ones into discomfort. Smith advocated an amendment based on what he called "Court of

Appeals language" to check this extravagance by requiring a two-thirds vote for the passage of such bills. In the formulation of his amendments to the financial sections of the constitution, Smith displayed an uncanny capacity for framing legal language "fool-proof and tight."

A number of Smith's amendments to the financial sections supplementary to the Executive Budget were accepted by Chairman Stimson. "If you keep on making amendments to the Constitution, Al," said one of his colleagues, "so much of it will be your handiwork you will have to support it at the polls."

Smith began his own remarks by reminding them that upon this question of State appropriations he probably spoke with as much personal experience as any man in the convention—certainly with more than most of the delegates. He reminded them that he had been chairman of the committee on ways and means in 1911. He had been a member of it ever since with the exception of the year 1913 when he was Speaker and could not be on that committee.

"So that I can speak," he said, "from the practical side rather than from the theoretical side. I am in accord with the committee on the preparation outside of the Legislature of a budget and its submission to the Legislature. But the proposal set forth by the committee on finance and so well and so ably explained by the gentleman from New York to my way of thinking does not go half far enough." He developed his argument in this way:

> That proposed budgetary reform reaches only about one-half of the appropriations of the State. Now I take it that the budget, so-called, will be what is known to-day as the Appropriation Bill, or the bill commonly known as the one that makes provision for the maintenance of government.
>
> In this year just passed that bill amounted to $32,000,000, but there were $63,000,000 appropriated by the Legislature, so that

there are $31,000,000 still left to be taken care of by the system that so much fault has been found with.

Now it may be urged that that is something for the Governor to take care of, but I submit to this Convention that any man in the Governor's chair, no matter who he may be, will be interested in the first instance in having his budget that he recommends to the Legislature as low as he can possibly make it. Now that is practical, hard, common sense, and if we are unwilling to recognize that we will never get anywhere in our discussion of the proposed method of handling the State's finances.

It may be urged that all the special bills could be included under the head of construction, if they belonged there; improvements, if they belonged there; but no Governor will ever put them in there. Why? Because you have by the terms of your own bill provided another way of doing it; a way which takes away from him any criticism that may come to him for initiative or suggestion, in the first instance, of this particular appropriation, so that the $31,000,000 this year, had this been in effect this year, the $31,000,000 of the $63,000,000 would have come under the heading of what you refer to on lines 17 to 25, on page 3 of the bill as "further appropriations."

Now about that there can be no dispute. The bill the chairman spoke about for the bridge in Wayne county, the Governor would never put that in the budget. That would belong among the bills for further appropriation.

MR. STIMSON—Will the gentleman yield for a question?

MR. A. E. SMITH—I yield.

MR. STIMSON—I did not mention the Wayne county bridge, but I suppose you refer to the one I did refer to last winter. As a matter of fact wasn't that vetoed by the Governor?

MR. A. E. SMITH—Yes.

MR. STIMSON—Would it not be taken care of in the same way under the system?

MR. A. E. SMITH—The Governor would never include it in the budget. That's my point.

MR. STIMSON—But he would take care of it.

MR. A. E. SMITH—Yes, precisely; but there are so many that he did not take care of that I want to see about them and when

I get down to it I will explain it to the House. What happened to Wayne county should have happened to several other bridges and creeks and normal schools; but it did not happen and I propose to show to the Convention that it was the intention, if I am able to read simple English, it was the intention of the Constitutional Convention of 1894, that no such bill as the Wayne county bill should pass this House by seventy-six votes; and the Committee has failed, so far as I am able to see, to cure that situation, although it can be easily cured, and it was intended that it be twenty years ago, as I propose to try and make it today.

Now, when I submitted my Proposed Amendment requiring the heads of the departments or the commissioners to make their requests to the Governor under oath, I did not then have in mind any budgetary system that would be prepared outside of the Legislature itself. I had in mind simply publicity—the incorporation, so to speak, of all these facts in the Governor's annual message. The Governor is now required by law to submit to the Legislature, at its first annual meeting, a statement of the financial condition of the State. It is because that makes no mention of proposed appropriations that nobody has ever been interested in it. When it is read to the Legislature there is not a man stays in his seat. It is printed and on the desk of the members, and, except for the purposes of discussion on very nearly every other part of it, except the financial article, it is never heard of again.

So that if I were to say that a budget should be prepared by any person I would say the man to prepare it would be the Comptroller, because the Comptroller can have no possible interest in it. And, again remarking that if we want to take a good common-sense view, good, hard, practical facts, let us now admit that the Governor does have an interest in some departments as against others. All Governors in that respect are alike. They have all made their personal appointments, going back as far as I can remember. Every Governor has had at the head of some of the departments of the State somebody that he personally appointed for reasons best known to himself. And under this system, to say the least, there exists the temptation to the Gov-

ernor to see that these particular departments of the State have all that they want, no matter who has to suffer for it. So that, if there is anybody outside of the Legislature to prepare and present a budget, in the ordinary course of affairs, in the ordinary course of good business, it ought to come from the fiscal officer of the State—the Comptroller.

And it should contain a comparison with former appropriations for those specific items. And, more important than anything else and above everything else, it should put down in black and white just how much money there is on the first day of that January to the account of each one of these particular funds. That is the one big thing that it should contain. There is no machinery in the Governor's office for it. After all, it will have to come from the Comptroller. Look over the list of the Governor's employees. With the exception of the stenographers and typewriters and the telephone operator and the pardon clerk and his assistant, every single attache of the Governor's office comes into office with him and retires when he retires.

Mr. Brackett—The military secretary, too.

Mr. Quigg—Mr. Chairman, will Mr. Smith yield for a question?

The Chairman—Will the gentleman yield for a question?

Mr. A. E. Smith—Yes.

Mr. Quigg—Does the gentleman realize that in using the term "Comptroller" he may be mistaking himself and us, until we know what the plan of the Committee on Governor and Other State Officers is? If the Comptroller is to be merely an auditor, as I understand is the idea, he is assigned to that one thing. If he is to be the fiscal officer of the State, or, as it were, Secretary of the Treasury—what the Comptroller is now—the gentleman is talking about another officer, and I should like to inquire just what he means by the use of the word "Comptroller"?

Mr. A. E. Smith—Well, by "Comptroller" I mean the position that the Comptroller now holds toward the departments of the State, the fiscal officer. Now, whoever you may decide is hereafter to be that fiscal officer, whether he is to be known as the Secretary of the Treasury or the Comptroller or the head of the department of the treasury, he will be the man that will be in a position, as I see it, to properly supply this information.

Now, as a matter of fact, where does this information come from now? Does it come from the Comptroller's office? Not at all. The Comptroller after his election is an individual man. Elected in November, after a hard and strenuous campaign, he goes away for a little while; takes a well-earned rest, comes back in time to engage in the pomp and ceremony of the installation of the new State officers.

Now, who is it that prepares this budget? Who is it that does the work now required of the State Comptroller under the Finance Law? The experts in the office of the Comptroller. There are fifteen or sixteen men in the Comptroller's office today who have been there upwards of twenty years.

The government changes. Comptrollers come and Comptrollers go; Governors come and Governors go with them; but these men who are experts in the different lines of the State finance have been there over twenty years, every one of them; and that is the resort to which the Governor will have to go for his information. If he was in office for a year, not to speak of a month, that is where he would have to go; and experience has so taught every man in the Legislature that he does not even go to the Comptroller himself, any more than the Finance Committees of both of these Houses consult with the Comptroller. Everybody knows that that is not so. In the Legislature, the different committees, the Finance Committees, they send for the men who are at the heads of these different departments and who are experts in them. If you want to find out anything about any financial plan, you send for Deputy Comptroller Wendell, who has been in the Comptroller's office for twenty years, and who knows all about it; and it is the same with the other department heads over there. So that after all while this may appear to be the result of action by the Governor, while it may appear an executive budget, it will have to come from the office of the Comptroller.

Now, there is another weakness about it. We must bear in mind that about 80 per cent. of your budget is statutory. Where the abuses have crept into the finance matters of the State in the past has been upon the initiation of new work, the committing of the State to some great public improvement which is going

to cost a great deal more money than is appropriated for the coming year. That is a very popular move in the second year of every Governor's term. If he is not re-elected he finds it convenient to pass two-thirds of the buck to the next fellow. If he is re-elected he is all right. So he does not hesitate to commit the State to a series of local and private improvements which may cost a half a million or even a million dollars, although against his financial record there is only chargeable $50,000 because he only desires to have the plans drawn while he is Governor. Now, that is a fact, and that comes within the budget, and absolutely no remedy appears anywhere in this bill for that condition, and that is the one thing that needs remedy more than does the budget, because the budget, as I said before, is practically 80 per cent. statutory. There can be no change in the salaries fixed by statute.

Mr. Brackett—Statutory and mandatory.

Mr. A. E. Smith—And mandatory. Invariably different things come up for which the Legislature shall make provision. Now, take the Governor's own office, starting with the Executive Department. The only one item that is what we call a liquid appropriation, and subject to any change is the office expenses, postage and expressage and documents and papers and things of that kind. All the rest is fixed by statute. So that when we are bringing under the supervision of the executive in the first instance that part of the appropriation that needs the least regulation, we are leaving free to the Legislature and to the Governor to do as they please after the Appropriation Bill is passed.

Now, in my bill, No. 345, which I am going to ask the Committee of the Whole here to incorporate in this proposal, I provide that every head of a department and every State office or head of a bureau shall swear to his request.

Now, gentlemen, speaking from what I said a few moments ago, as a personal experience, that is the one great thing that you have got to do. If you do not do that, all the rest of this estimating by the department heads to the Governor means nothing. That is a question of opinion, and no Governor will set his opinion up against the head of the department that he has given full responsibility for the success of its undertaking.

There is a popular imagination probably that when the requests come over to the Legislature for appropriations from the different departments the Legislature accepts them just as they come from the department. Why, that is not the fact. If that was the fact, upwards of $15,000,000 more than has been appropriated for the last five years, to my own knowledge, would have been appropriated every year.

The Legislature, through its Committee on Ways and Means, has, first, a check upon that; secondly, through its Finance Committee of the Senate, it sends for the head of every department and goes over the items with him, item by item, and where an item differs from the bill of last year he must give his reasons for it. That is not any more than a Governor can do—or, at least the Governor cannot do any more than that; but when you say to the department head, "You swear to that statement," he will make a little closer study of it than he does at the present time.

One of the troubles at the present time, and has been, to my knowledge, for as long back as I can remember, is that the department heads themselves pay no attention to these matters. In every single department of this State you will find some man who has been there for a great many years, who has charge of the finances, and let the chairman of the Ways and Means Committee summon the head of a department to come before him in relation to his appropriations, and what do you see? You see the department head walk in, and behind him his clerk with a package that big in his arms, and you may direct your inquiry to the head of the department, and he will invariably turn around and say, "What about that?"

Now, that is the fact. These department heads will have these itemized statements that they give to the Governor prepared just as they have been prepared right along, by the clerks, and some of these clerks have attained some of their reputation for ability by being able to convince the Legislature that they need a little more money every year.

Now, about that there is no question.

Now, it would be no insult—somebody said it would be an insult, or inferred that it would be, or that the oath would be, or

the opinion would not be of any use. I say now that there is not a head of a State department here that will put his name down on paper and raise his right hand up and say that what that paper contains is necessary, unless he reads it first; and that is where you get your safeguard over appropriations.

You will compel the department heads to become more acquainted with the fiscal business of their departments rather than the politics and the construction work, whatever it may be.

After Recess

Mr. Wickersham—Will the delegate yield for a question of information?

Mr. A. E. Smith—Yes.

Mr. Wickersham—What is it that this official is to swear to? What is it on which you lay so much stress?

Mr. A. E. Smith—Swear to the necessity for the conduct of his department for the next fiscal year.

Mr. Wickersham—Swear that, in his opinion, it is necessary for that particular purpose that is indicated?

Mr. A. E. Smith—That is right. I claim he can do that. I claim that he can find that out, as to necessities, almost to a certainty and then he need only swear as to his opinion on desirable appropriations, stating why he would like to have them and what reform he seeks to work out by them, what new activity he proposes to enlarge upon or improve by the appropriation of additional money for that particular purpose.

Now, starting with the Governor's office, the Governor can, with the exception of two items in his whole office, make affidavit to the necessity of the appropriation for his department. Every one of the commissioners could do it. The Superintendent of Insurance and the Superintendent of Banks can tell to a certainty what is required to run their departments for the coming year. And it would have another effect which I think would be very good. After that official has sworn to the necessities for the next fiscal year, it would be rather difficult to get him to change his mind; and they have been known to change their minds as to the necessity, particularly when there is found

number one, two or three on a civil service list, some individual that is "entitled to consideration."

Mr. Cullinan—Mr. Chairman, will the gentleman give way?

Mr. A. E. Smith—Yes.

Mr. Cullinan—Mr. Speaker, I would like to ask you with reference to three topics, and, from your standpoint as an active member of the Legislature, I would like to get your views. First, last winter Mr. Adler introduced a bill entitled "An act to amend the legislative law, relative to financial information for the use of the legislature and the preparation of the annual budget and appropriation bills."

I would like to get your views on that measure and the reasons why it did not become a law.

Second. As to the advisability of wiping out these balances of appropriations after three months, instead of the two years' clause at the present.

Third. What in your judgment would be the practical effect of having the Governor or State officers come before the Legislature?

I would like your opinion on those three propositions.

Mr. A. E. Smith—Mr. Chairman, I will take the last one first. This proposeed amendment to the Constitution provides that "the Governor, the heads of such departments and the Comptroller shall have the right, and it shall be their duty, when requested by either house of the Legislature, to appear and be heard in respect to the budget," and so forth and so forth.

That really makes no change in the present system. The Governor has that right at the present time; he has always had that right. The legislators themselves—the legislative committees have the right now of subpœnaing, under the Legislative Law. If they desire to find out something about any matter at all pending they can subpœna a man and compel him to testify.

So that I think that answers that point. I fail to see how that makes any change. The Legislature can demand this information, and if it is refused, it can, with propriety, withhold the appropriation.

I believe, myself, that the Legislature to-day has a greater power than will be given to the Governor even by this. This seems to be more in the nature of a request, whereas the Legislature can now subpœna and can compel the witness under oath to testify as to any fact, in relation to any pending proposition, whether it be an appropriation bill or any other matter.

That is very carefully safeguarded at the present time, and that may also answer the question of why the Legislature did not pass the Adler Bill.

Because it seemed to me—it seemed—I suppose it would seem to me to be unnecessary, all that power residing at the present time in the Finance and Ways and Means Committees of the two houses.

Now, the second one, I—

Mr. Cullinan—Whether the appropriations should—

Mr. A. E. Smith (interrupting)—Oh, yes; yes. Well, the part of this bill that proposes to have the appropriations lapse three months after the fiscal year is a very, very good thing, that should be done; very necessary. Two years is too long a life to give an appropriation of the character of office expenditure and travelling expenditures. The department should be compelled in the single fiscal year to have that reappropriated; if you didn't do it for any other reason, it would call attention to it, the fact that it is being reappropriated.

Now, in the report set forth in Document 32, one of the essentials of the report is to require information, to get information, that it may be public. I claim from my knowledge of the handling of the finances of the State that you cannot get real, genuine information unless you require some responsible person to swear as to his opinion as to its accuracy. What will go on under this will be exactly the present system. The clerk in charge of the department will unquestionably draw up that statement and send it to the Governor. In the first instance it will be misleading because more will be put in there than will be actually required, with the hope in the first instance on the part of the friends of the Governor that he may be able at the very beginning of his term to make a financial record of pruning

down and cutting down so that they can say here is what the department has requested; look at it; thirty-seven millions; but here is what an economical Governor suggests to the Legislature, only thirty millions—seven millions less. The temptation to do that will unquestionably exist.

Now, under your proposal you prevent the Legislature from increasing the items, but, after the budget is passed, there is no check whatever on the Legislature from passing another appropriation bill for one of the identical objects, and no official of the State will be ready to give his sanction to that special bill if it increases the cost of his department, after he has previously sworn to the necessities.

Now, suppose this had been in the Constitution this winter? A bill came in here from one of the State departments and passed the Assembly with a certain amount in it for a given purpose. When it went to the Senate $22,000 was added to it.

It came back and was concurred in by the Assembly and went to the Governor and he signed it. Now if the retiring State official had, over his signature and under oath, made the statement that $22,000 less than that was all that was necessary for his department for the next fiscal year, that "twenty-two" could not get in very well unless everybody knew exactly how it was getting there and why it was put there.

Mr. Wickersham—Is there anything to prevent the Governor in making up this budget recommending a reduction in the number of places, or in the rate of salaries, so that the suggested budget by him would be an indication to the Legislature of the direction in which economy might be practtised.

Mr. A. E. Smith—Yes, he can do that now.

Mr. Wickersham—Yes, but in connection with the budget it would be more effective, in that it would call the attention of the Legislature more distinctly to it, would it not?

Mr. A. E. Smith—Why, no more strongly than it is called at the present time. The Governor this year said:

"The increase, on an unprecedented scale, in the number of State officials and employees, and the reckless increase in salaries in nearly all departments during the last four years are explainable only by the existence of a deliberate plan to fasten the

control of a party upon the State by the use of a vast amount of official patronage. The present condition of the State's finances demands an immediate and drastic revision of the State's payrolls and requires that unnecessary offices, departments and commissions shall be abolished. Service should be rendered to the State on the basis of efficient and economical private employment," etc. And he goes on and mentions several ways he expects to do that. But before the session was over he attempted to defeat it himself.

Now, I said in the opening of my remarks that the budget as we understand it, or the appropriation bill, would carry only one-half of the appropriations. This year it would have been thirty-two millions of the sixty-three millions that were appropriated. You say here that neither house shall consider—That means that they cannot even have a committee meeting on the other thirty-one millions until they have passed the budget. Now, in order to have plenty of time, and the time the Legislature would require to deal with the thirty-one millions that I speak of, the appropriation bill must pass before the first day of April, the session to last until the middle of May.

It must pass before the first of April. Now, by leaving in here the power in the hands of the Legislature to initiate appropriations, after that, what becomes of that first budget? Supposing we had the condition that obtained here this winter, where every single department of the government was changed around. Why, by the first of May you would not know that budget if you saw it. But there it would stand, probably Chapter 2, or 3, of the Laws of 1915, and by the first of May there would not be a shred of it left and where would the taxpayer then be when he wanted to find out what the budget of 1915 was? Instead of being able to turn to one bill containing all the expenditures, he would have to read the session laws through to find out what happened to it afterwards by subsequent legislation.

Supposing on the first of March your budget calls for three State Tax Commissioners at $7,500 apiece, and three deputies, at $5,000 apiece, and three secretaries. About the 20th or 25th of April the Legislature, in its wisdom, or maybe upon the request of the Governor, may see fit to reduce the Tax Commission to

one member. As soon as that bill is passed you have to amend the budget, if it had only just become a law. Now I cannot offer any remedy for that—I am going to be very frank about it. I cannot offer a remedy for it because if I attempt my remedy for that, I am going to foreclose the Legislature from dealing in any way, shape or form, after the budget passes in the first few months, with the structure of government, so that they would practically be reduced down to amending the penal code and the civil code and such other laws as would not require any money to enforce or any additional officials to enforce them.

Now about the 15th of April if the Legislature decides to put new duties upon the Commissioner of Labor or upon the Comptroller, or upon the Superintendent of Banks, or upon any other of the officials, what have they got to do? You cannot send them out to do a job and give them nothing to do it with. You have got to make an appropriation. That comes afterwards in a special bill. What then happens to your budget? Again I say, you have got to go all through the session laws to find out just what was the record of a particular administration in making provision for the support of government.

Mr. Parsons—Mr. Chairman, will the gentleman yield for a question?

The Chairman—Will the gentleman yield?

Mr. A. E. Smith—Yes.

Mr. Parsons—The gentleman has stated that there would be thirty odd millions of appropriations which would not be covered by this budget. I do not find in the records of previous years any such sum. Take the appropriations for the fiscal year ending September 30, 1914, which are found in the Comptroller's report for this year. The appropriation bill for the preceding year was $29,518,069.25; the supply bill, $2,201,482.05. The special bills—I understand by that that it means construction, does it not?

Mr. A. E. Smith—No, not necessarily.

Mr. Parsons—I mean, some items would be considered as construction?

Mr. A. E. Smith—No, a great deal of it is construction and improvement of existing structures.

Mr. Parsons—Now, the special bills, the total is $16,895,-

442.87, but of that all except $8,849,193.34 is for canal fund appropriations and the sinking fund installments, so that those special bills really amount to only $8,849,193.34, and included in those are the construction items. Now this proposed amendment intends that in the budget there shall be included all the construction and improvement items.

MR. A. E. SMITH—It does not say so.

MR. PARSONS—It says "all the financial needs."

MR. A. E. SMITH—Oh, no, it don't say anything of the kind; "the needs of a department, classified according to relative importance." Just the needs of the department.

MR. PARSONS—Well, every construction—take the Education Department. If it needs additional construction, it is a need of the Education Department, is it not?

MR. A. E. SMITH—Why, no, not under the system that has been operating here. You are not changing the system and when I get down to the private and local bills I will show you why you are not changing the system.

MR. PARSONS—How much did the private and local bills amount to?

MR. A. E. SMITH—Why, about fifteen millions.

MR. PARSONS—The private and local bills?

MR. A. E. SMITH—Yes. The private and local bills are of a kind that the Governor will not take responsibility for in the first instance.

MR. PARSONS—Well, will the gentleman point out to me where it is provided that local bills amounting to $15,000,000 appear in the 1914 appropriation?

MR. A. E. SMITH—Why, the whole supply bill has practically been a private and local bill.

MR. PARSONS—But the supply bill is only something over $2,000,000.

MR. SMITH—That was in 1914.

MR. PARSONS—Well, in 1915, the supply bill was $5,090,-231.42—not $15,000,000.

MR. A. E. SMITH—When I say the special bills, I mean they all run up to $15,000,000.

I regard the maintenance and construction of the highways,

the maintenance item of the highways an item that would be under dispute and that would come in afterwards. Now let me show you why that is so.

Mr. Parsons—What is there in this proposition—

Mr. A. E. Smith—The Governor in his message says, in his special message said to the Legislature on the 4th of February, dealing with the finances of the State, in which the celebrated $18,000,000 came into play, he said, the State is spending $100,000,000 in the improvement of so-called State highways, and in order that the property of the State shall be conserved it has been necessary to expend out of the treasury each year a large sum of money for the repair and maintenance of the highways which have been improved. Last year over $2,000,000 have been spent for that purpose, this year $5,000,000 are requested, but if the last appropriation is not exceeded we will be required to appropriate $2,000,000. But what did we appropriate? Four million four hundred thousand dollars. Now, that was in face of the statement that was made and not contradicted that the present organization of the Highway Department was unable in one year to spend more than $2,000,000, and the statement was made and never contradicted that the State Highway Department, with the money that they had left over and above that $2,000,000, bought stone and oil and stored it away outside of the city of Buffalo for the repair of the roads for the next year, notwithstanding that $4,400,000 was appropriated for that item.

That $4,400,000 is the thing that I speak of, it will be in the special bills because no Governor, after being in office a month or two months, would undertake to say whether it requires two, four or more millions, but he would let the Legislature decide that and he would deal with it himself afterwards.

Mr. Parsons—But it would be in the statement of the department as some of the needs of the department, wouldn't it?

Mr. A. E. Smith—Yes, it will be; no doubt about that, and if you leave it to the Highway Commission it would be up to the top figure.

Mr. Brackett—May I file a caveat as a point of order—

The Chairman—Mr. Brackett—I don't know of any such practice, but I have no doubt permission will be granted.

MR. BRACKETT—If the questioning and argumentation, back and forth under the guise of argument, which greatly delays the game, continues, I am going to hereafter make objection.

MR. A. E. SMITH—Now, I want to pass on to Section No. 21. The Appropriation bill. "No money shall ever be paid out of the treasury of this State, or any of its funds or any of the funds under its management, except in pursuance of appropriation by law." Now, stop there. Now, one of my proposals would amend that to read this way: "No money shall ever be paid out of the treasury of this State or any of its funds or any of the funds under its management"—and I add the words "nor any obligation incurred except in pursuance of an appropriation by law." Now, what I am seeking to do by that is to prevent the department heads and bureaus of the Government from incurring the liabilities where no appropriation has been made for it. Now, that is the present law, it is the State Finance Law, but nothing ever happens about it for the simple reason that the appropriation bill, when it passes, legalizes that action. The reason why I want it in the Constitution is that there will be the same safeguard around the highways where an obligation has been incurred with no appropriation as there is now about the payment of money of the State funds without appropriation.

I will show you exactly what I mean. Take the supply bill of 19—yes, page 9, under the heading of the Civil Service Commission, for deficiency in appropriation for actual and necessary traveling expenses of the commission, its secretary and other employes of the commission, in the performance of their official duties $1500. Now, that was incurred without appropriation. And what happened? That department owes it to somebody, there is nothing for the Legislature to do but to pay the just debts of the State and then give it the expression of law by writing it into one of the bills and, as Mr. Wadsworth says, they have the effect of law and that legalizes their action.

Now, another illustration—it runs all through the bills—in the State Probation Commission, for books, stationery, printing, supplies, postage, etc., my memory happens to be keen on this item—it was denied by the conference committee of 1914, and they were told by that committee that they had enough money for that pur-

pose. But they went on and incurred the indebtedness just the same. They came along next year and had it legalized by the appropriation bill—page 54, lines 10 to 13 of the bill, as a deficiency in the appropriation for expenses of delegates to the National Prison Congress. They asked for that, apparently, but did not get it, but they went on, and attended the Congress, and came back the next year under the head of the deficiency. Now, there could be no deficiency in that if it was ever appropriated. The trouble is it was never appropriated and it was afterwards called a deficiency in traveling expenses—and that thing will go on continually in this State unless you put into the Constitution that no obligation shall be incurred except in pursuance of an appropriation by law.

It is going to have another good effect; it will stop the increasing of salaries in departments until the Governor and the Legislature can act first—

Mr. Cullinan—Mr. President, will the gentleman give way?

Mr. A. E. Smith—Yes.

Mr. Cullinan—Doesn't what is known as the Higgins Law prevent the incurring of the expenditure to which you call our attention?

Mr. A. E. Smith—I so stated, Judge, but the great trouble is that this legalizes the violation of it because this then becomes law. I don't know, if it is in the Constitution I presume somebody could attack the legality of the enactment. That would be the difficulty.

Now I come down to what I regard as probably the most important thing about the bill, in Document 32. The Committee has spoken strongly about log-rolling methods in the Legislature to secure appropriation bills. On one page they deal with the manner of a passage of a bill in the Senate with only two members voting against it, but you haven't done a single thing to cure that. There is absolutely no cure for that. These special bills will never be in the budget; they will be in the class of bills that you refer to beginning on line 17 of page 3, neither House shall consider further appropriations until the appropriation bills sent by the Governor have been acted upon. Now after that is over and the fixed charges of the State are comprehended, the

budget or appropriation bill is finished, then comes the log-rolling all over again, and you haven't done anything to prevent it and you can do something, it can be prevented.

Now, in 1894, there was written into the Constitution, Section 20 of Article III, and it reads as follows: "The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public money or property for local or private purposes."

That is the present Constitution. Now, there is no question as to what that means. But the courts, in their decisions, have defeated its purpose, because they have held that while an appropriation may mainly benefit a single section, it may, at the same time, benefit the whole State.

So that they have defeated its purpose. Of course, every dollar spent in this State upon an improvement, it would be difficult to say it did not include the State; but it mainly benefits a single locality, and it was the intention of the Constitution framers in 1894 to require that that class of bills receive a two-thirds vote in order to pass.

I propose a constitutional amendment today. I say: "The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating public money or property for local or private purposes," and now, I add this "or for State purposes when less than the whole State is to be directly or mainly benefited by the expenditure of the moneys appropriated, except appropriations for the repair and maintenance of the canals, or the support and construction of State institutions."

The reason why I make the exception is that I hold the canals and their maintenance and repairs and their construction to be a State-wide purpose even if a single locality may be benefited by it, and I maintain and I hold that the construction and the equipment and the care of the institutions for the insane is a State-wide purpose, even if the construction of one building or a set of buildings in a single locality may be deemed by some—I won't imagine that there are some who do—but it may be deemed by some to be mainly benefiting one section.

Mr. M. Saxe—Mr. Chairman.

THE CHAIRMAN—Mr. Saxe.

MR. M. SAXE—Will the gentleman yield?

MR. A. E. SMITH—Surely.

MR. M. SAXE—Merely for the purpose of an explanation. Why does the gentleman exclude highways from that definition?

MR. A. E. SMITH—Well, because there is no specific appropriation made, nor can there be any made for any given highway. That is the reason. There is no occasion for including highways because the Legislature does not appropriate a sum of moneys to improve the highways in Herkimer county or in Orange county. That is apportioned and must be apportioned under the referendum by the State Commissioner of Highways.

Now, that is the class of bills that all the log-rolling takes place on. That is the class of bills that the greatest possible pressure, pressure of all kinds is brought upon the Legislature to pass and upon the Governor to sign, these private local bills.

Now, in the Governor's special message to the Legislature, he said, that the present condition of the finances of the State was such that no new work should be undertaken. "Appropriations for the starting of new activity can wait. The extension of present activities can wait. In most cases additions to existing institutions can wait. Many other propositions, desirable in themselves and justifiable under other conditions can wait and should be compelled to wait."

Notwithstanding that, notwithstanding the fact that it was presented to the Legislature that we were looking squarely in the face of an eighteen million dollar direct tax, the Legislature went right on, passing special, private and local appropriation bills, and the Governor signed a great many of them.

Now, let me give you an idea of what I mean by the kind of bills which require a two-thirds vote on.

"An act to provide for the reconstruction of the old portion of the Potsdam Normal and Training School." Now, education is a State-wide purpose; there is no doubt about that. But the reconstruction of a normal school in one section of the State, in Potsdam, in St. Lawrence county, it seems to me, is rather local in its nature. I picked that out first because that is the best one of them all. That is the one that I probably would stand for first.

Here is one that, to my way of thinking, is a monstrosity; an act that commits the State to an initial expenditure of $150,000 for straightening out Olean creek. That is purely a local bill, and by its express terms, to show that it is local, the city of Olean proposes to expend as much as the State does for the same purpose. They acknowledge by their own bill that it is a city purpose, for the city of Olean; they "fifty-fifty" it with us. Now what do they do for the protection and the safe-guarding of the tax-payers in Olean? For their $150,000 they propose a referendum to the taxpayers; but for our $150,000, that is immediately available. The minute the taxpayers of Olean say "yes," we have to say "yes." Now that is a great public improvement in the interest of a taxpayer over in Flatbush or down in Brooklyn or down in Richmond. Everybody can readily understand the great State necessity that exists for straightening out that creek. If that creek is not straightened out, then property on Manhattan Island has got to depreciate! Unquestionably that bill is a bill that comes under section 20 of the old Constitution and should require the assent of two-thirds of the members of both Houses.

Here is a bill making an appropriation to reimburse Philip Becker for money that he paid to the State for a grant of land under water. That is a private bill. I haven't any quarrel with "Phil"; it probably belongs to him, but it is a private bill.

"To provide for the construction of a bridge over the Barge Canal in the Village of Lyons, and making an appropriation therefor." The history of some of these bills should be known in order to appreciate the abuse of this special legislation. Some of these bills have been introduced so often that you do not have to introduce them any more; you can leave them up in the back of the chamber and they will find their way into the bill-box themselves. (Laughter.)

Here is one making an appropriation and a reappropriation for continuing and completing the construction of a bridge over the Black River and the Moose river at Lyons Falls. Here is another to provide for the construction of a foot-bridge on the north and south walls of Lock No. 3 of the Cayuga and Seneca Canal. That is absolutely a local bill. It is either a local bill or it is a part of the canal construction. It cannot be anything else. If it is

local, it should be paid for by the locality; if it is a part of the canal, it should have been paid for out of the canal money. There is no possible way that you can justify that payment by the taxpayers of the whole State.

Here is one to provide for lowering another bridge—one of them is too high.

Mr. Wadsworth—Did they pass?

Mr. A. E. Smith—They became laws.

Mr. Wadsworth—All of them?

Mr. A. E. Smith—All of them, all except the Lyons Falls bridge. That has only been introduced three times; that is not old enough yet. (Laughter.) That is one that has not reached the proper age; it has not ripened.

Here is one to provide for the removal of a farm bridge over an abandoned section of the canal—$12,000. The small amount of that indicates clearly that that is a special, local, private bill; because if the State was to adopt the general policy of taking down all bridges over the abandoned canal and filling the place up with concrete, it would cost a couple of million dollars. But in this particular section of the State, in this one place, for the benefit of the farmers of this particular community, a wood and iron bridge is to be removed and a solid concrete roadway to be built right across the bed of the old canal. That is purely a local bill and it is interesting—it just occurs to me—at the time of the discussion of it the man that introduced it said that it was put there to let the farmer get to the other side quicker. He had to go a couple of blocks if that was not done.

A bill to provide for the construction of a bridge over the Oswego river at Minetto—purely local.

Mr. D. Nicoll—May I ask a question? Why wouldn't all your objections be met if, instead of striking out all on page 3, as you now suggest, you provided that as to these further appropriations as to the budget, they should not be made except by separate bills, as the amendment now reads, and with the further safeguard that they should require the assent of two-thirds of the members elected to the branch of the Legislature?

Mr. A. E. Smith—No; that would be too much power; it is giving too much power to the minority. The minority could hold

up the whole constructive program of the majority because they could stop any bill that made an appropriation for carrying out its purpose, and under the plan suggested here, all such bills will have to carry appropriations, because early in the session the budget will have passed, and I don't believe in giving the minority of a body the power to obstruct or hold up legislation of the majority. That would not be in keeping with our ideas of good government.

Mr. D. Nicoll—But if the appropriations are necessary, the minority would yield.

Mr. A. E. Smith—They may not. Supposing it should happen to be the kind of a bill that would enlarge, for instance, the Court of Claims, creating two new judges at six thousand a piece. That would be an appropriation of which the minority could say, "No, we don't want the two judges." I only want this two-thirds to apply to what the people intended it should apply to twenty years ago—local and private bills; and the language that I use in my proposed amendment is taken right from the Court of Appeals where a section is mainly or directly benefited. That is the point.

My bill, No. 343, found its way into the form of the amendment that I suggested to Section 21, which I think there can be no possible objection to. That is the one that prevents any officer or any department head from incurring an obligation without an appropriation.

So that summing it all up so that I may conclude, the fault that I find with it is that it simply gives constitutional authority to the present law and the present practices. With the exception of taking away from the Legislature the right to increase an item or to add an item, something that they seldom do, as I said before, they have the same powers.

It contains no method for ascertaining facts. It is just an estimate. I seek to cure that by the oath; and its principal defect is that it does not go to the great body of fluid appropriations. Those are subjected to change from year to year and can be made to a certain size to meet certain political conditions, if you please. It makes no provisions for any control over these appropriations whatever. They are thrown into the Legislature to be acted upon

just as they are at the present time, after the passage of the budget, and without my amendment requiring the two-thirds vote all the private and local bills, you have the whole system open to the same log-rolling that has taken place in the past; open to the same criticism that has taken place in the past; and I hold again now, and I claim that I am exercising only plain common sense when I say that no Governor will put this character of bills into the appropriation bills, in his estimates, and certify to it that the needs of the State will require it, and the same situation will exist as before. You have left it open to the same abuses, and you have left it open to the old-fashioned criticism, and the only way to cure it, and the only way to do away with that criticism is by the adoption of my amendment, and if you do not adopt it you have only completed about one-third of the job.

CHAPTER XXIII

Reorganizing the State Government—Retrenchment

It was a tense moment in New York political history when the Reconstruction Commission met to organize at the City Hall. The Governor made an address with some emphasis and made a plea for the adoption of an extended welfare policy. He took up other reforms, to be sure, but he dwelt likewise upon the need for reduction of the cost of government, unless some way were found to increase revenues. In response, the Reconstruction Commission appointed a Committee on Taxation and Retrenchment.

This committee studied each department of the State government. It exposed the cumbersome character of the whole structure. It should be mentioned that this committee was headed by Alfred E. Marling, then President of the New York State Chamber of Commerce, a lifelong Republican. Among its members were Michael Friedsam, Mortimer L. Schiff, V. Everit Macy, Arthur Williams, Charles P. Steinmetz, Bernard Baruch, John C. McCall, Charles L. Sabin, men of reputation in the business and financial world.

The committee submitted its report in October, 1919. In its bold retrenchment policy which advocated cutting down many needless jobs held by Democrats and Republicans alike, the Governor supported the committee without a suggestion of political consideration. Seldom has the sincerity of a man been tried as his was when he faced these business men and put no other test to their recommendation than the most efficient method of running the State's business.

Briefly the Commission's program comprised three constitutional amendments.

1. The reduction of the 189 agencies of the State with their overlapping and costly functions to a compact organization restricted in future by the Constitution to twenty departments, and a short ballot consisting of the Governor, Lieutenant Governor and the Comptroller. This amendment is known as the consolidation amendment.

2. An Executive Budget System.

3. The lengthening of the present two-year term of the Governor to four years.

The aim of the program was to simplify the structure of the State government and to give the Governor the needed initiative and authority so that if he fails he has no alibi.

The Commission advocated many statutory consolidations of the departments and bureaus which by eliminating duplication and waste would immediately effect savings. They would, in addition, pave a constitutional way for the reorganizations to be brought about by the constitutional amendments, which required the successive approval of two legislatures with a different Senate before they could be submitted to the people.

Amendments were first submitted to the Legislature of 1920.

Business and civic organizations of the State studied its findings. The earliest of such studies was made by the City Club of New York, which appointed a Committee on Reconstruction with ex-Governor Charles E. Hughes later Secretary of State, as its chairman, and Congressman Ogden Mills as its vice-chairman. The committee consisted of some of the ablest lawyers of the city and experts on government. After weeks of study it published its report favoring the recommendations.

On December 8, 1919, was held the meeting of the City

Club of New York at which Smith spoke. Mr. Hughes also spoke from practical experience as State Executive and he advocated the changes recommended just as Governor Smith had done.

Smith sincerely appreciated the compliment paid him by the City Club "to come here practically at the end of my first year as Governor." It had been suggested to him that anybody may be invited to come to the City Club just after being elected. It meant something to be asked after a year in office. It at least indicated how well the City Club understood that Smith as Governor was "trying hard." He went on:

I appreciated after I arrived at Albany—in fact before I left New York this time a year ago—that there would be the necessity for a study by some commission, made up of men and women who had given of their time and of their thought to the problems which confronted the country during the war, to the problems which we had to meet after the war—unemployment, proper housing, health measures, and conditions due to the termination of the war, but this particular study of retrenchment was suggested more by the fact that the State was obliged to resort to an Income Tax in order to meet its expenditures than from any other reason. When I arrived in Albany on the first of January, according to the Comptroller's figures, the State was some $25,000,000 short in its anticipated revenues by comparison with the actual needs for the operation of the government for this fiscal year.

It was a golden opportunity to resort to an Income Tax because no political party could be blamed for it. It had to be passed by a Republican Legislature and accepted by a Democratic Governor to become a law and everybody thought that it was the only thing to do. Not for that reason alone, though that supported the contention, but also for the reason that the time had arrived in the history of the State when it became necessary to resort to some form of direct taxation which would let the citizen of the State understand that he was contributing to its support.

So that the time arrived in the history of the State when it was not only necessary to find a way of financing the State, but to find a way of doing something for the various municipalities of the State, and at the same time impressing upon the citizens the necessity for a greater interest in the business and affairs of the State.

It was apparent to everybody that as soon as we adopted the principle of taxing the incomes that, unless there was some check on the other end of the string, the temptation would be very strong upon the Legislature year after year to move that tax up a quarter, a half or a point; and it was with this thought in mind that the Reconstruction Commission began the study of a reorganization of the State Government, not so much for the cure of the evils which exist to-day but to prevent a recurrence of them.

I believe, and I think we all believe, that one of the reasons for the high cost of living to-day is the heavy taxation on the business of this country. It is passed along to the ultimate consumer, and in the last analysis these taxes will be paid by every citizen in this State, whether his income comes up to the amount stipulated in the statute or not.

Now, the great trouble is this: The State of New York in twenty-five years has grown apace; it has embarked in new lines of endeavor; it has taken upon itself new duties and new obligations; and it has attempted to do it with machinery which was constructed fifty years ago. The government of this State is not understandable to the man on the street; it is a very difficult thing for a man in public office to get a proper understanding of it. One must have been in Albany for a long while and been a real good student and paid close attention to it, or he will not understand it.

I thought I was around Albany a long while, with my twelve years in the Legisature and one year in the Governor's office; and I found out only a few months ago that we had a commission in this State known as the Board of Geographical Names. I heard of it when a man resigned—and it became my duty to appoint his successor. I made a little investigation and I was

sure after I had the matter explained to me that the duties being performed by that Commission undoubtedly should be performed by the Department of Education or by somebody in that Department; but there was a separate Board for it.

I was amused about two months ago to pick up a newspaper one day and find that the State of New York bought $560,000 worth of land in the Adirondack Mountains, purchased through the Land Board. Nobody around the capitol—around the executive office, surely—knew anything about it.

The government of the State to-day is conducted by 189 commissions and boards of different kinds, spread over the State. The diagram whch accompanies the report of the Reconstruction Committee best illustrates it. This report proposed to put the work of these 189 boards into eighteen State departments and to give the Governor the certain control over the State departments. For instance, take the deparment of Military and Naval Affairs. As that department stands to-day, we have the Adjutant General appointed by the Governor; we have the Major General, and the Commander of the Naval Militia. The appointment of these officers is as far as the influence of the Governor reaches. But look at all of the boards and commissions in the State which really belong under that title: the Monument Commission of Miles' Irish Brigade, the Adjutant General, the Armory Commission, the New York State Monuments Commission, two soldiers' institutions, the National Guard, the Naval Militia, and the supervision of expenditures of State money by the G. A. R., and the Spanish War Veterans.

For years back the practice in Albany has been to either create a new commission or to put a duty into some department which is in no way related to it. For that reason we have the Secretary of State collecting the automobile tax. We have the State Board of Tax Commissioners collecting the corporation tax; and now the Comptroller is going to collect the income tax; so that the tax collecting functions of the State Government are spread out; and the Comptroller's office has ceased to be what it was intended to be at the time the first

Constitution was adopted—it is no longer an auditing office, but a great, big administration office, performing functions which the people of the State look to the Governor to perform. Nobody comes to Albany to complain to anybody but the Governor. I meet them all. I have to listen to all. And it is difficult to make people believe that there are these different agencies of government which are not under my control, for that matter, under control of anybody.

I said a moment ago that this report was intended not only to show how to cure the mistakes of the past, but to prevent them in the future. Mistakes are made every year.

At the last session of the Legislature, or the session before the last, there was created a new commission to look after narcotic drug control.

In my annual message to the Legislature, my first message, I recommended that this Commission be abolished because the appointments had not yet been made, and I also recommended that the function of the Commission be transferred to the Department of Health, where it belongs. It would be very easy to give the Health Department the control of narcotic drugs, but the Legislature did not see it that way. So, after I appointed a Commissioner, the Legislature gave him $51,000 to perform all of the functions of his office, including his salary and the salaries of his deputies and his and their traveling expenses. I regarded it as money wasted, whereas if the function was placed in the Health Department the State might get some return for the money appropriated and expended.

There has been some criticism of the report on the ground that it was taken from the Constitutional Convention of 1915; and somebody said I spoke against the adoption of that Constitution. That is true; I did; but I favored this particular part of the Constitution. And when I was called into the Speaker's room for conference with Senator Root and George W. Wickersham and the leaders of the Convention, I frankly told them I thought they made a grave mistake in not submitting that Constitution in sections. They insisted that it be submitted as a whole, and with the Apportionment article continued in it, I voted against it. I felt so strongly against that

THE FIRST PICTURE OF HIM

Apportionment article, and I felt its injustice so strongly, not only the injustice to this city but to every other city of the State, that it put me against the whole program.

Now, there will be no real arguments made against this report. There is no influence in the State working against it. This is in the interest of the State; it is in the interest of the people; it is in the interest of the taxpayers. My only fear is that politics might creep into it. If there is anything I can do to assure the Republican legislators that they can have their full measure of credit if they will pass it, I stand ready to do it. The only fear I have for it is that there may be the disposition on the part of the leaders of the Legislature to feel that if they adopt this program they will be recognizing the work of the Reconstruction Commission, and that they will be doing something which may be of some political benefit to me. Now, if all the candidates for Governor will get together in one room, and talk it all over, I will sign any release the rest of them will sign.

Another criticism which will be made was made in 1915. Some fellow will jump up and say, "It makes the Governor a czar." Well, it does nothing of the kind. The President of the United States is not a czar, but he names his whole cabinet. The Mayor of the city names his whole cabinet. In fact, the charter has every city commissioner's term co-terminous with that of the Mayor, and they automatically go out on the expiration of his term.

From the standpoint of economy there is no doubt in the minds of reasonable men that the waste in this State is due entirely to the duplication of effort on the part of the different departments. Inspectors of all kinds are constantly traveling through the State. The State of New York is the greatest patron the New York Central Railroad has. We probably pay out more money for traveling expenses than the combined outlay of any five concerns in the State. You must remember that every Board created, and every Commission has to have a secretary and an assistant secretary and a stenographer. A great many good people work for the State for nothing on

these Commissions, but they must have help. They must have secretaries, and it would be hard, practically impossible, to estimate what a saving there would be in consolidation and elimination; but I am sure if you consolidated all the business of this State into eighteen Departments and fixed the Constitution so that hereafter every new activity of the government must go into one of these Departments, you would materially cut down the cost of the State government.

There is requested by the different Departments for the coming fiscal year $141,200,000. That is not extraordinary, and it is not out of the way. The State of New York has felt the high cost of living, the way every one else has. You cannot feed and clothe the patients in the State Hospitals and other State institutions at the price which you did even two years ago.

The real fact is, that the State is not paying enough money for the service it is receiving.

So that we want to banish from our minds the idea of cutting down the expense of the State by any other means than what is comprehended in this report, because the consolidation of these departments will, without doubt, decrease the cost of running the State, because it will be another class of employees eliminated.

After we have reconstructed the State Government, as I hope we are going to do, we ought to have a little committee to look over the laws of this State and find out if there isn't some way to have the Governor working at things which mean something to the people of the State.

Years ago—when I say years ago, I mean long before the time of Judge Hughes or myself—I am informed that the Governor had very little work to do, but after the adjournment of the Legislature he was practically free until it was time to write his message. Well, I can imagine that that would be so, because the activities of the State Government twenty-five or thirty years ago in comparison with to-day were very small, so it was a common thing to pass a statute and say, "With the approval of the Governor," "Countersigned by the Governor," so that the Governor finds himself to-day spending the largest

part of his time signing his name, and under the law he is the only one who can do it. Now, for instance, every time the New York Central Railroad appoints a policeman on their railroad I must sign his appointment, so that the other night I found a large bundle of certificates of railroad appointments that I had to sign. Every man who is let out of prison cannot get out until the Governor signs the parole sheets, even at the expiration of his term, after he has satisfied the State for his offense; he cannot get out until the Governor signs that paper. When the Legislature created the State Constabulary, for some reason of its own and which I never could clearly understand, it prevented the Constabulary from entering any of the cities of the State except by the direction of the Governor, so I find myself the State Police Commissioner when it comes to the activities of the Constabulary within the cities; and I have had this happen; the President of the Common Council and the Police Commissioner certified to me that the city did not need the State Police, and the Mayor certified that it did. Whereupon the Mayor charged the Police Commissioner with being in league with the strikers, and the Police Commissioner said that the Mayor was a friend of the manufacturers; so there wasn't anything left in the world for me to do but to send the Superintendent of the State Police to that city and let him stay down for three or four days and decide for himself whether his forces ought to go in or not.

Every time the State makes a lease—Public Service Commission hired gas-testing station over in Queens at a rent of $55 a year—I have to sign four copies of that lease before it means anything. The Governor has to pass upon the contract for removing the ashes from the power house, and when the contractor who had it found himself thrown into war-time prices, and unable to go on with it, he came over to the Executive Chamber and the only man he could sit down with to talk about the cost of moving those ashes was the Governor. So we want a committee, after we have got this reconstruction job out of the way, to just go through the statutes and see if the Attorney-General or the Secretary of State cannot sign some

of the leases and contracts to move the ashes, and leave the Governor to direct his attention to the great, big problems, the big things that the State is interested in, like the Health Department and the care of the insane and the mentally deficient, great questions of conservation, water power development, or any number of such questions which nobody is studying because no living man can do it and attend to routine work at the same time.

Now, I think I have briefly summed up the situation. This is the best place I can find to make a strong appeal for non-partisanship in dealing with this report. I believe that I enjoy some little reputation for keeping my word. I will give it—I will give it to the Legislature—that if they will come in with me, take this report, do the best that they can with it, I am not going to be like the fellow who insists on getting his bill the way it is printed—because usually that fellow don't want the bill. If they won't take it all, I will go along with them as far as they will go, and I will promise them now that at no time in the future will it ever be referred to by me or by anybody over whom I have any control as any program of mine. The fact of the matter is: it is not my program. The real truth about it is I could not think that all out myself. I wouldn't be able to do it; I wouldn't be able to write that report in all the years I was in Albany. It comes from an absolutely non-partisan commission, and it is the joint thought of men who are interested in the welfare of the State without regard to parties, Democratic or Republican.

Now, if the Legislature will meet me in the spirit which I feel toward this Commission and toward the Legislature, we will get it across.

Reorganization and retrenchment of the State government being essentially a business problem, the Governor naturally turned to organizations of business men versed in practical affairs for aid in getting his program accepted by the legislature. He addressed many Chambers of Commerce and business organizations in the course of his campaign for the

amendments. Soon after the legislative session opened he spoke with Senator Sage, the Republican chairman of the Senate Finance Committee, at a noon-day meeting of the Merchants' Association in New York. The speech is permeated with his characteristic good temper in the presence of an adversary and was received with great approval.

As the 1920 session of the Legislature proceeded it was evident to the Governor that his program would be blocked by the Republican legislators. His speeches, therefore, became more aggressive. He presented his arguments in the fighting vein of the campaigner.

He spoke in many cities and several times in New York, but without avail, except to secure the passage of that one of the three amendments which consolidated the 187 agencies of the Government into twenty and adopted the short ballot.

CHAPTER XXIV

Ex-Governor Smith in Albany

With the Harding landslide the Governor was able for the first time in twenty-one years to consider his personal affairs. He had to work for a living. He became chairman of the Board of Directors of the United States Trucking Corporation, a business to which he came naturally, as his father was a truckman. As a private citizen he displayed the fitting restraint and dignity of an ex-Governor. He refrained from any partisan criticism of his successor. He did all in his power to co-operate with him. Regarding the reorganization program as a non-partisan matter approved by the leaders of both parties alike, he broke his silence and responded to the appeal of the New York State Association, a civic organization of state-wide character which continued the fight for the constitutional amendment, to speak at a hearing before a joint legislative committee on the subject. It was his first appearance in Albany after his defeat for re-election.

The announcement that ex-Governor Smith would appear at the hearing sent a thrill through Albany. The people of the State Capitol City loved him no less than his own townsmen have always loved him. Albany was the scene of his fourteen years' public career. He regarded it as his second home.

When the Governor arrived at the station he was surprised to see a large gathering of the citizens. They gave him an enthusiastic greeting. His trip through State Street to the

Capitol building was a triumphal procession. The Senate Chamber where the hearing took place was packed to the doors. Representatives of important business and civic organizations and publicists of both parties appeared in favor of the amendment. But the audience was tense with expectancy to hear the former Governor. He was introduced by Adelbert Moot, the President of the New York State Association. When he rose to speak the Senate Chamber rang with prolonged cheers.

Contributing to the good cheer and the congenial atmosphere was his informal and friendly approach to the representatives of the opposition party on the committee. He would refer to their common experience in past legislatures to make his point, and the Assemblyman or Senator involved would respond with a knowing chuckle or a smile.

While waiting for the hearing to begin, news was brought to him that the emergency rent laws (the outcome of the Special Session of the Legislature which he had called in 1920 and which he had signed) had been that day upheld by the State Court of Appeals as constitutional, and legislators and spectators gathered round to congratulate him. The old colored veteran page in the Senate Chamber guarded with his very life the seat he had himself selected for his Governor, and he would permit no one but himself to usher him and provide for him the now proverbial glass of ice water he always uses when he speaks.

Smith was heard in tense silence as he began:

I said when I left the Capitol that if I returned at any time it would be to debate constitutional questions; that the ordinary everyday matters were not of so much importance.

I was interested in listening to the chairman repeatedly call for the opposition to the proposed constitutional amendments. So far as the amendment that has to do with the reorganization of the government itself, the budget and the four year term is con-

cerned, there was in the chamber the silence that might be expected, because the opposition to this has never come out into the light. You have it before you now as the result of an attempted campaign of opposition to it.

The twenty-five minutes or so that was given to the opposition I would not say was lost, because we are willing to sit around the table and discuss everything, but it was given entirely to a misunderstanding of the provision that has to do with the inspection of state institutions. Nothing that appears in this amendment has anything at all to do with any of the work of the Department of Education or anything that it is doing or attempting to do in the interest of mental defectives that are in our school system. It has only to do with the people who become the wards of the state, and there is created by it simply a department with one presiding official.

It would be supposed from the character of the argument from the opposition that the mental deficients and the insane were all going to be put into one building and all cared for by the one man. No such thing is contemplated. In fact, no such thing is even possible under its provisions. But it is possible for the state to have one great department of government that can deal with that whole subject and let it be divided as the Legislature sees fit to divide it into the different bureaus and the different departments presided over by as able men as the State can find in its different lines of endeavor.

There is nothing new about that. The city of New York successfully carries it on through its Department of Public Welfare, but it does not mean that the wards of the charity hospital are in the same room and are receiving the same supervision that the addicts of narcotic drugs are, or the feebleminded who come under the supervision of the city.

I think that it is agreed by everybody that we are struggling along in this state under a constitution that we have grown away from. Is there a man in this room who was present in the Constitutional Convention of 1915 who is ready to dispute that statement?

Assemblyman Martin—You and I didn't have very good success amending it.

GOVERNOR SMITH—We did our best, Judge.

ASSEMBLYMAN MARTIN—The people did not think so.

GOVERNOR SMITH—You know why they did not, better than I do, and you know as well as I do that it was not anything that had to do with the reorganization of the government that interfered with the passage of the constitution.

ASSEMBLYMAN MARTIN—I agree with you on that.

GOVERNOR SMITH—Then we are all right, as far as that is concerned.

ASSEMBLYMAN MARTIN—We agree on that point.

GOVERNOR SMITH—You know it does not make any difference how good a document is, you can overload it; and when you excite the suspicions and the passions of the people against an entire document, that which is good has to go with the other part. We have naturally in this state a great many people who do not believe in doing anything. You have always got to count them in. They start with the forces of reaction, before you begin to move at all. They are the ones who say, " Now, let's wait." I know men who have sat in this chamber in my time and who would be entirely satisfied if the Legislature adjourned before Lincoln's Birthday, feeling that if nothing happens at least nobody is hurt. There may nobody be helped, but nobody is hurt.

We are trying to fit the activities of a great state into a set of constitutional machinery that was manufactured before anybody in the room was born. Do not make any mistake, gentlemen of the committee, about the attitude of the people of this State toward this question. I speak to Senators who were here last year, and you know that you would not have this amendment before you this year unless you became convinced that the people of this State want it. Why do I make that statement? Why do I put so much force behind it?

Because the chairman of the Finance Committee of the Senate, speaking for the Senate, because, when he spoke he said, "We," left Albany and started a tour through this State in opposition to these very proposals, and I am certain that I violate no confidence when I tell you that I sat in the Wolverine Express with him on a Monday afternoon a year ago, after we had both addressed the Merchants' Association in New York, and he told

me to take a little quiet time for myself and not to be over-anxious about this reorganization, that nothing would come of it.

But if you make a memorandum of the date upon which the Senator made his Rochester speech, and look at the date of the introduction of the amendment, you will find that after he left Albany and went around the State a little bit and gathered up a little public sentiment he came down and introduced for the consideration of this house and the Assembly amendments carrying into effect the very things he declared against, speaking for the Senate.

A great deal of fun has been poked at the reconstruction theory by the opposition of the members of the boards and commissions that we have in the state. Let us not underestimate. If you think there are not as many as we think there are, sit in the Executive Chamber for two years and be obliged to confer with somebody from everyone of them, and by the time you have finished, 180 or 187 will look too small to you. You will think there must be more.

I am taking a good, cold, practical common-sense view of it, and if there is any man in this state who can give me any good reason why the people of this state should elect a State Engineer I would like to hear it. I never heard it from anybody. I have a great deal of difficulty in finding any number of people that know who he is. The same thing applies to the Secretary of State. The same thing applies to the State Treasurer. Still we go on in solemn fashion every two years putting forth candidates for all of these State offices.

Is there any reason why we should have in this state five or six different tax collecting agencies? I notice Senator Knight's face when he says, "We are going to change it," but let me go back a couple of years over a little bit of history, and he knows about it, too, because he was right here with me. He knows the things that Governor Whitman started out to change, and he knows what happened to the Governor's proposals. The one constructive feature, the one big idea in Governor Whitman's first message to the Legislature, was the consolidation in the interest of a greater efficiency and economy of the different tax

collecting agencies. But there was another state official elected the same day that the Governor was and he had just a little more patronage to give out than the Governor had, and he came over here to this building and he put the blocks to the Governor, and you remember it.

ASSEMBLYMAN MARTIN—Do you want to keep on electing him?

GOVERNOR SMITH—Who?

ASSEMBLYMAN MARTIN—That official you are talking about.

GOVERNOR SMITH—I do not think the personality enters into it.

ASSEMBLYMAN MARTIN—I mean the system.

GOVERNOR SMITH—The Comptroller?

ASSEMBLYMAN MARTIN—I did not say who it was.

GOVERNOR SMITH—You know who it is and you know how successful he was and you know what it meant to the State when they both fell out and the Governor was deprived of the advice he ought to get from the Comptroller's office, and you know how dearly the taxpayers paid for the mistakes that grew out of the quarrel between them.

However frequently in the course of the ensuing remarks the former Governor was interrupted by outbursts of laughter, he strove to ridicule rather than to be amusing. He drives his points home. In doing this he does not resort to devices that are literary. He expresses himself—if there be any meaning in the term—athletically. His forms of speech are gestures of themselves. The least attentive reader gets from this speech, for instance, the impression of a man in action. He has no time to exploit melodramatic or historical allusions. His speech, however carefully prepared, is not cooked up as if it were a feast. It is an argument—not a dry, dull, ill-informed argument—which must be conclusive. The effect upon a hearer has to be such that no subsequent speaker can weaken the force of it. From this point of view, Smith is a genuine orator, but he is not ornate, like Edward Everett, or overwhelming, like Webster, or stormy

like Douglas. He is simple, straightforward, direct, lucid and above all well informed. Nobody ever listened to him on a platform, perhaps, without feeling that Smith knows what he is talking about. Consider the rest of this speech by way of illustration:

I was going to say something about efficiency but it is related also to the question of economy in administration. What man can give us any reason for having four or five commissions dealing with prison matters in this state? We have a commission on prisons. We have a Superintendent of Prisons. Then we have a Board of Parole and for fear that may not be enough we have a Probation Commission. Now the day that the Board of Parole leaves Sing Sing, on their way out they are liable to meet the Commission on Prisons going in.

Does it look to efficiency? Does it look to responsibility in government? No, it looks to confusion. What happened in the last six months that shows that confusion? The Commission on Prisons after the plans had been drawn for the new death house at Sing Sing found a provision in the law that gave them the power to say whether or not it was to be done, and they decided to hold it up. I summoned them to the Executive Chamber and discussed it with them in the presence of the State Architect and the Superintendent of Prisons, and we were all agreed that the building should be built, as long as the plans were all drawn, and about to submit them for public letting, and the Commission on Prisons changed its mind about it, and there we are.

We have got the death trap down on the Hudson River years after the Legislature declared its purpose, years after the State speaking through its law-making body declared that they desired a new building built, and the old one is still standing there. On the 6th of last December five men were put to death there on one night, and the inmates of the death house awaiting execution could hear the buzz saw when the surgeons were cutting the tops of the heads off of the men that had been executed. Barbarous! It is something that belongs to the dark ages. Can you remedy it? You can, providing you get the commissions to stay in harmony long enough to let you do it. Is there any reason for

it? Would a good business institution stand for it for a minute? Why should the State stand for it? If the State could have a single department of correction presided over by some able citizen appointed by the Governor and responsible to him why is not that man able to carry out all the duties the State feels it is best to perform toward the people that are guilty of infractions of the law?

Why should there be a different notion in one part of the State as to how an institution should be run as against another part of the State? I think if you will take a simple man's view of it I can tell you why, in my opinion, it started in that way. It is so old and belongs to a time so far back that the State was not able to function in any other way. But with the modern means of transportation, with the automobile and the regularity of trains, is there anybody willing to say that one man, properly equipped and properly trained could not from this very building preside over all the correctional institutions of the State? I am satisfied that he could, and I have had it proven by practical experience to my satisfaction.

I think the most salutary part of this scheme is the part of it that prevents the creation of any more commissions. After you have established eighteen departments of the government to take care of every conceivable thing that the State can ever take care of, why should not any new activity be put into one of those departments? Isn't it a fact and if we want to be square with ourselves will we not admit that the creation of commissions in the past has been to take care of some particular political situation? What was in the minds of the legislators when they created a Department of Narcotic Drug Control? What was in their minds when they were enacting three or four new sections to the Public Health Law, and the original bill gave to the Commissioner of Health the execution of the additional duties comprehended in these three new additions to the law that he was supervising? Here we have a Department of Health with sanitary supervisors spread out throughout the State in inspection districts, with a costly machine already installed in this building, and we create the Department of Narcotic Drug Control for the

purpose of enforcing three sections of the Public Health Law. We have to sit down here in solemn conclave and find an office for them, and find a place for them to function, and have to supply them with all the secretaries and all the help that they need, just as though we were beginning something new in the State of New York, instead of doing a duty that the state has performed for a number of years—the preservation of the public health.

The abolition of the Narcotic Drug Control Department is now included in the program of economy. I recommended twice that it be abolished, and so solidly entrenched and so necessary was it for the State that it lasted during my two years.

I think that the general scheme of a constitutional amendment to reduce the number of elective offices and provide for the creation of these eighteen departments of government is pretty well understood throughout this state. I believe that the members of the Legislature understand it pretty well. I believe that it was because they understand it that we have it before us this year, not as a new proposition but for second passage prior to its submission to the people of the State for adoption.

I will pass to the second amendment, and that has to do entirely with the constitutional provisions that have to do with the inspection of our Prison and Hospital Departments. I regard them simply as companion bills, or companion measures, to the whole general reorganization scheme, and of themselves they create no State policy. They simply take out of the fundamental law certain fixed things that have been in there for years and which I do not believe should ever have been in there, and they leave the Legislature free to deal with those departments, under this one commissioner, in any way that it pleases.

That brings us to the budget system. The proposal for an executive budget was defeated last year by one vote in the Senate. Reading Senator Sage's speech about it, I cannot help saying that the whole proposition has been grossly and gravely misrepresented. Now, I would be the last man in this State who would stand in this chamber or in this building and urge anything that would take take either power or dignity from the Legislature.

I have as clear an understanding of it as any man in this State. I understand it as a branch of the government. I understand it as the essential of representative democratic government. I believe that what it ultimately does is all right, anyway, although we may quarrel while the session is on. That is my faith in it. That is the best expression of faith that I can give you. I think it is all right, and I would be the last one to suggest anything that would detract in the slighest degree from its power, and nothing in the budget system, as proposed, takes any power away from the Legislature.

Now, what does it propose? It proposes that after the government is organized into eighteen departments that the Governor and the heads of the departments, under appointment by himself, and I will explain the necessity for that when I come to the four-year term, sit down and make up a budget. What is a budget, as we understand it? A budget is the necessary expense of running the State. It is overhead. It is that which you cannot get away from. Just exactly as the family sits around the table once a month and you put down the rent, the gas bill, the morning and evening papers, and the things that you have got to have, and then you talk about the luxuries afterwards. It means that that budget will be prepared by the Governor and the heads of his departments and submitted to the Legislature, and it will have the power of reducing but not increasing any item. Is there any reason why they should increase it?

Senator Whitley—What about an outgoing Governor?

Governor Smith—You have the same proposition in the city of New York with an outgoing Mayor, and the same proposition in Washington. It becomes the duty of the Governor and he will establish within his department, and he will have to, a scientific budget-making department. You know why you haven't got it now. Every Governor has got to regard the present budget system as a kind of a joke. If he knows anything he cannot do anything else, because that is what it is—just a joke.

Do you remember the dinner down in the Ten Eyck the night the newspaper men gave the dinner, and George Janvrin, the

policeman, ran in and said: "One minute; stop! Don't eat the soup. Don't eat that soup. Wait a minute." Everybody sat back to find out what was the matter with the soup, and the policeman went down in the kitchen and brought the chef up with his white cap and white jacket, and he said, "He is under arrest for poisoning the soup." The chef explained that he didn't poison the soup, he only threw something into it at the instigation of Senator Sage, and when he was asked what it was he said, "The Governor's Budget."

Could you imagine me wasting my time preparing a budget? There is not a man in this chamber or in the Assembly that has any regard for my ordinary common sense who would suggest that I ought to draw a budget under present conditions. I would not know it twenty minutes after it came up here, nor would the man who drew it, so don't let us talk about any executive budget system that we have, because we haven't got any. Senator Sage himself was responsible for the statement that there are not twelve men in the Legislature, not twelve, who know where the money is coming from to support the budget that they all get up and vote for.

SENATOR KNIGHT: Didn't he say ten?

GOVERNOR SMITH: Twelve, and he didn't divide it, and I don't know how many were in the Senate and how many in the Assembly.

After the Governor and the heads of the departments have agreed upon what is necessary for the overhead of the State, what reason is there for increasing it in the Legislature? What State purpose is served by increasing any of the items? You may say that we deprive the Legislature of the right to increase them. Not at all. We do say that when they do it they do it out here on this floor and in the open by a single bill, so that it can be decreased. Nobody would want to take away policy-making from the Legislature, for it costs money; and every new policy and every new activity of the State naturally costs some money. Nobody intends to take that away.

It was never intended by any provision of these amendments. After you have made provision for the support of government you have put down in black and white everything that, in the

opinion of the Governor and his department heads, is absolutely necessary, and you have had your opportunity to reduce it where you thought it was extravagant. You have thereafter all the opportunity and all the chance that you desire to embark upon any new endeavor, and if you desire to increase the salary of the janitor of Agricultural Hall you can even do that, but you have got to do it by a bill and not by writing it into the big bill of six hundred pages or more, which nobody reads. Why should the Legislature tell a department head that he ought to pay somebody more money than he thinks they are worth?

It is a matter of good practical politics, and we have all had our day at that, and wouldn't it be a good thing to be able to say to the army of men that come after you, "See the Department head, he understands the value of your services, and if you are entitled to a small increase he will give it to you. Don't come up to the Senate. We are a legislative body. We are not running the Highway Department. We are simply providing for its maintenance, and we do not go any further."

Would it not release time to debate upon the floor of both Houses larger and more important things which mean more to the State, some of the brains and some of the time that has now got to be spent by legislators in going over the picayune things at the request of constituents and admiring friends as to how much the janitor of Agricultural Hall is to get next year?

Won't the State benefit by that? So far as I am concerned there would be no question.

Don't let anybody talk to you about the executive budget system interfering with the power of the Legislature. No suggestion of that kind appears in the amendment.

He was heard attentively. His listeners knew he was speaking from experience. Smith has this immense advantage as an orator—he can draw upon his own record for his material. There never was a public speaker who needed "literature" so little. He has lived with his subject, whatever it be. Not that he subjects an audience to the fatigue of merely receiving information, as if they were empty jars to be filled. He expounds, he reveals. His speeches are

chapters from the story of his life. He is like a commander who can teach the art of war from the recollections of his own campaigns. For example—

After you have made that provision for the support of government that the Governor and his executive heads believe should be made, you can go as far as you like, if you can get twenty-six votes in the Senate and seventy-six in the Assembly. It doesn't make any difference whether you are appropriating $1.25 or $60,000,000.

What position do you put the Governor in under the present system? He has to take your appropriation bill or leave it. He has either to cripple a department by cutting out the amount or take whatever you say about it. I do not believe that that is the general public understanding of the function of the Legislature. Certainly, the Governor has to answer for it, and the present Governor made a vigorous campaign on the question of economy. I am in hopes that he will be able to make good, but he cannot do it himself. He has promised something that he knows in his heart and soul he cannot personally deliver. He has got to rely upon somebody else. Is that right? Is it fair to him? Is it what the people of the State expect?

Now then, we come down to the four-year term and the control by the Governor when he comes into office. Prior to 1894 in the city of New York you had the identical situation that you have in this State. You had commissioners of important departments in that great city government appointed for given terms. Some of them exceeded the term of the Mayor. The Legislature itself declared that no man could be held responsible for the government of the city of New York unless he was given that freedom of selection which permitted him to surround himself with men of his own choice.

President Harding was inaugurated President of the United States last Friday. He brought into office with him, and declared it throughout the land, a Cabinet of his own selection to take charge of every activity that comes under him as President of the United States, and the people are looking to him. What have you got here?

You elect a man for two years. He comes in here, and he finds himself surrounded on all sides by men appointed for all kinds of terms, many of them longer than his own. They are out of sympathy with him—but glad to see him—and unwilling to do anything for him that they do not actually have to do. What man who never served in the Legislature, or never had any experience, can get any understanding of this government in a year? I do not believe that the man lives, and I do not care how much of a lawyer he is. I do not think he lives. I have sat around this building and I have watched Governors who have come here since 1903, and I know the number that we have elected in that time who came here without any understanding of the job that they came to. Some got it in the year and some more never got it.

At the end of the year he is projected into a fight whether to retain his place or stand up and say, "I have enough," or lie down. Under the primary system he begins to run about a week after the 4th of July, and he is not any good to himself or the State for about three months, and then after election, unless he is made out of something that humans are not made out of, he has to go away and lie down and sleep for himself or he will die. So that out of twenty-four months you automatically eliminate six months of his usefulness by compelling him to run again.

Let us go back a little bit and see when the two-year term was fixed for a Governor. There was not very much to this State at that time. It had very few activities. It is well known of some of our Governors that as soon as the Legislature adjourned they went home—home to the Executive Mansion? No, home to where they lived, and they stayed there until the Legislature was about to convene again. That was possible in the good old times when Governors rode around behind their four horses and did not have any work to do. But with the present activities of the government, the present business of this State, and with its enormous expenditures and its widely divergent lines of endeavor, all requiring his time and all requiring some study, why elect him for two years? He is of no use to the State until he has been in for some time, unless he has been around here for a long while.

You made the term of the Mayor of New York City in 1904 four years, for that reason, and it was urged on the floor of this House and on the floor of the Assembly that if we were to get continuity of effort and endeavor in the city of New York it had to be done by extending the term of the Mayor, and that is why you made it four years instead of two years, and that was done seventeen years ago. But the State, afraid of progress, afraid of anything new, and moving along behind the footsteps of that fellow who wants nothing done, nothing done at all, is living in an age long past, and electing the Governor for two years.

Senator Sage said, "If he is a good Governor he can submit himself again," forgetting that it takes him six months to submit himself. You would think all you had to do was just say, "All in favor, say Aye." If you could only elect him that way, there would be nothing to it. That is not the way it is done, however, and we have to take a count by our political system.

I have said nothing at all about the question of the right of the Governor to name his own aides and assistants. It ought to be. It ought to be. A man who comes into this building as the Chief Executive of this State is entitled, by every fair process of reasoning, to be surrounded in the great departments under him by the men of his own selection. A great many of the Governors believe they ought to be anyway, and what do they have to do to bring it about? They have to turn the department inside out for about six months while it is undergoing a process of reorganization, as referred to in high class language, but by bills that have been designated by the vulgar term of "Ripper."

In urging this, gentlemen, I assure you that I have no partisan purpose. There is nothing that I could say to you this afternoon, nor could I find words to say it, that would have you feel as strongly as I do that I have no partisan purpose in coming up here to talk on this reorganization. I have had all the elective or appointive places that I will ever hold while I am alive. I have discovered in two months that I am a very good truckman, and I am in that business. I am here to do what I can, doing it upon the time of the men who pay me, for the State of New York, largely from a sense of gratitude to it and largely for what return I can make for what it did for me.

This is backed up by men of all parties. I spoke for it from the same platform with Secretary of State Charles E. Hughes, and nobody ever accused him of being a member of Tammany Hall. I spoke from the same platform with Henry L. Stimson, right on these very things we are talking about this afternoon, and from the same platform with Martin Saxe, Republican Senator, who I understand is here today in advocacy of the very things that I am talking about. So, do not let us get any political notion about it. There are plenty of political bills up here I could come up and talk about, if I wanted to create a little storm or a little uprising on the political horizon. I regard this as being something above party and a matter of duty for citizens who are interested in getting this government right, and I do not think there is a man in the Legislature, possibly with the exception of that rare individual here who must disagree in order to preserve the eternal fitness of all things who does not believe way down in the bottom of his heart and soul that this is right and that it is in the interest of the State of New York.

That is the reason why it got such undivided support and that is the reason why it attracted to its cause men of every party, and of all parties, and men who know nothing about parties. That is the reason why merchants' associations, chambers of commerce, boards of trade and civic organizations from one end of the State to another have stood up so strong behind it, and that is the reason why Nathan L. Miller, the Governor of New York, accepted a position on the Executive Committee of the non-partisan group which urged its passage by the last Legislature—because he knew it was right.

I submit it to you. I feel that the Legislature will pass it on to the people and let them vote upon it. If there is a fundamental question of our democratic government involved in it let them settle it.

It will be seen from what has gone before that Smith does not "orate." Neither does he try to come down to the level of his audience. Smith, indeed, has a profound respect for the intelligence of any audience and this is the secret of his effectiveness.

After the speech he was seen paying visits to the Republican chairman of the Ways and Means Committee of the Assembly. He held a mysterious conference in the minority leader's office in the Senate. When he was on the way back to New York it leaked out in Albany that he had used the hour before train time to see that a widow with two children employed in one of the State departments (who had been slated to be dropped from the payroll) was restored to her place.

In spite of his effort, the consolidation amendment failed in the Republican Assembly of 1921 although carried in the Senate. The reorganization program became an issue in the 1922 campaign for the governorship. Miller and Smith debated it in their speeches everywhere.

Promptly on his return to the governorship in 1923, Smith resubmitted the amendments to the Legislature. He again took his case direct to the people. He made a series of speeches to audiences in every part of the State, beginning with the State League of Women Voters in Albany in January, visiting Buffalo, Syracuse, Rochester and Utica. He wound up with an appeal before a joint audience of the City Club and the Women's City Club of New York.

Conferences on the consolidation amendment were requested by the Republican Assembly leaders. There ensued a few minor concessions to their views. It triumphantly passed the 1923 Legislature. Once again it was launched on its journey to the people.

But on the Executive Budget and the Four Year Term for the Governor the Republican Assembly has remained adamant. No persuasion of their own leaders, no eloquence of the Governor, however logical the argument, has yet convinced them of the wisdom of submitting these questions to the people.

CHAPTER XXV

On the Difference Between Despotism and Democracy

Never will Smith forget a meeting of the Community Council—a body originally subsidiary to the Council of National Defense. The business of that gathering was discussion of a subject concerning which the memories of Governor Smith were exciting—the price of milk as it affected poor people.

He had been asked to meet this audience so that he might speak direct to the people from the standpoint of the State as a whole. The first thing to meet his eye when he got upon the platform were diagrams and figures tending to illustrate to the audience the cost of the distribution of milk.

Smith began by saying that the question of milk production, milk transportation and milk distribution was a question to be considered not from the economic standpoint but from the standpoint of public health. There was wild applause. The incidents attending that meeting, the circumstances connected with the milk strike and the episodes preceding and following left a deep impression upon the public as well as upon Smith.

It was characteristic of him to exploit this episode before a gathering of the National School of Democracy at the Town Hall early in 1923. He was reviewing the record of New York State in the matter of progressive legislation.

At the beginning of his term of office, he reminded his hearers, there had been a "milk strike." There was a dis-

agreement, he explained, between the association representing the producers and the consumers of New York. "Something," he said, "unheard of and unthought of and not regarded as possible in this advanced day, took place in 'this, the metropolis of the western world.'" The whole city of New York was deprived of over fifty per cent. of its milk supply for a week or more. Nothing could reveal more clearly the retentive quality of Smith's mind, his faculty for lucid narrative, his mastery of his medium as a speaker, than the account he gave them—and that merely by way of illustrating a point—of those exciting events.

He showed how he had lived with the subject; gave instance after instance, then cited the Night Work Bill to prove that the question of "Constitutionality," so often raised against a liberal measure, could be met in this case, too.

> Let's see how far the state has gone and how far the Court of Appeals of the state has been willing to go, when the question involved was one of public health or public welfare. In 1904 the Legislature passed an act prohibiting women from working in factories of this State after a certain hour at night and before a certain hour in the morning, commonly called the Night Work Bill. Judge Gray, the presiding justice of the Court of Appeals, declared that act to be unconstitutional back in 1904 upon the ground that it interfered with the liberty of women to contract to work whenever they pleased. There was nothing before the court except the bare statute.

But in 1912, eight years later, when the same identical bill was passed, word for word, and it was backed up by testimony and evidence taken by the State Factory Investigating Commission, containing the sworn affidavits of our most eminent physicians that night work for women was dangerous to their health, the very same court on the identical bill in an opinion written by Judge Hitchcock, declared the act to be constitutional, and took occasion in the written opinion to

say that that change in opinion in the Court of Appeals was due to the fact that the Court had before it documentary evidence under oath from a member of the Legislature indicating that the bill was in the interest of public health and was therefore predicated on the State's police power to protect the health and welfare of the women of the State.

I hold and I don't believe there is a lawyer in the State that will contend otherwise that you can say with equal force to the Court of Appeals, "here are the documents; here is the testimony, and here is the evidence that the regulation by the state of the production, transportation and distribution of milk and the fixing of its price by the State is in the interest of the public health and comes under the State's broad police power."

Now before I pass to the next subject let me say that anything and everything that can possibly be done to find a permanent solution of this question has been done by everybody in the State, private citizen and official alike, except the law-making body. It is right up to them. There is nothing further that I can do. There is nothing that the Council of Farms and Markets can do even if it was functioning properly, which it is not, and why it is not functioning properly I will try to explain to you in a few minutes. And I say that all the power that can be brought to bear in this State is worthless unless the Legislature will confer upon some agency the power to do the acts comprehended in the bills for milk control that are now pending in both houses.

At the meeting of the Community Council in December, Smith spoke at some length about the Council of Farms and Markets. It is a curious institution. Smith wonders if any other state in the Union has anything exactly like it. It is apparently out of the control of everybody. He explained:

The Governor of the State means nothing to them. I can get a respectful reply to my letters telling me that they will receive consideration, but that is all I can get. Let us go back and find how it came about. For years we had in this State a Depart-

ment of Agriculture whose function it was to promote in every way the science of agriculture in this State and to provide for the enforcement of pure food acts. In 1914 there was created a Department of Farms and Markets. The underlying theory of its creation was to devise a ways and means and to bring into action machinery that would bring the farm closer to the city and bring the producer and the consumer closer together and eliminate some of the unnecessary evils of the middleman who was sending the cost of food so high up in this State. Starting at this point with this as its purpose, it was organized in 1914.

Well we have interests in this State. The farming interests of the State are very powerful and they are very thoroughly organized, and under our constitution they can elect more people to the Legislature than we can, no matter what our population may be. We can grow in this State to forty millions but we cannot get any more representation, and this is fixed in our Constitution and seems to be irremovable. You certainly cannot pass a bill for an amendment to the Constituton changing that condition when the very beneficiaries of it are the men who have got to vote for the bill. And I might say here tonight frankly that it makes no difference whether they are Democrats or Republicans. There seems to be no question of politics here; it seems to be a question of interests—and it supersedes, goes ahead of political consideration.

These interests came together and they decided to get control of the Department of Agriculture and the Department of Farms and Markets, and when I say "control," I mean effective control, that kind of control that tells the other fellow, "You keep out. You cannot come in." So they conceived the idea of erecting a regency over agricultural matters, such as we have over education—a ridiculous proposition, comparing regulated business with the function of education.

Education upon the one hand standing out as the most sacred duty that the State owes to its people, and agriculture on the other, a business, stimulated, of course, but regulated, it seems to me, in the interest of all the people. So this regency was created and the Council of Farms and Markets was erected by act of

the Legislature, one member from the Judicial District of New York, the Commissioner of Markets, and representatives of each of the nine judicial districts and one member at large, making a board of eleven members, brought into existence by the Legislature itself and appointed by it.

Strange to say, when the original bill was brought before the Governor, the Governor very heartily subscribed to the beautiful theory of this regency. He was in harmonious accord with lifting agriculture out of the mire of partisan politics and putting it upon the high and elevated plane that was promised, except when he said that, he also said, "I will appoint the first council and after I get finished you can do what you like with it."

Accordingly, we have this unique situation that the agricultural, market and farming interests of the State are presided over by this regency. This Council created a Division of Agriculture and a Division of Farms and Markets and they appointed two men that get along as well together as a tame cat and a bull terrier. And we were coming towards election and it was necessary to have political fences built, and therefore the department was created practically by statute, not by any trained mind, not by any man that brought any scientific thought to what he was doing; no such man was put at the head of the department, but by this, that or the other fellow, and they were arbitrarily written into the law so that there would be that much political patronage no matter what else happened and consequently we find the Department of Agriculture manned by a floorwalker from an Elmira dry goods store!

I know all about that Department. There was nothing new in it to me. I sent for the Agricultural leaders of this State. I know them all. I have known them for years. I can talk to them. I brought them right to my own home and I talked to them right from the shoulder and they knew that I was right. They knew that I knew what I was talking about because I called a spade a spade. I told them what I knew, and they knew I knew what I was talking about and they all agreed with me that the condition ought to be remedied. We had a bill

drawn that was calculated to remedy this condition and introduced it in the Legislature last year.

It went along from day to day, the Agricultural interests and the Bureau of Farms and Markets were talking to the Speaker and the majority leader and they talked to the other leader. So finally the day came when I said, "Let us get down to business. We have conferred about all we are going to about this. It is coming close to adjournment. What are you going to do about it? And I asked the Chairman of the Council of Farms and Markets to go and get the decision and he came down and opened the door of my office and he said, 'Nothing doing.' I said, 'What is the reason. No reason given?' 'No reason.'"

But you know what it is. There is too much patronage there. It cannot be disturbed. So the Legislature turned it down and the same conditions continued to exist in the Council of Farms and Markets. I was in this predicament. I knew it; the agricultural interests of the State knew it. We did the very best that we could do to get publicity for it but it was difficult. So I bided my time until the day arrived and I appointed the Chairman of your meeting tonight to go into the Department and open it up, and he went in there and he did open it up, and he brought forth a report that has been inquired about and has been asked for in every State of this Union. He has laid the whole thing bare, not only incompetency, not only lack of ability but what approaches upon scandal, is disclosed in that report.

If the same report came from a department presided over by men that come from a well-known organization in New York that I belong to, there would not be room enough in the city prison for them. There it is. It has been in the hands of the Legislature since the middle of January. Specific recommendations are made to cure palpable evils, evils that stand out, evils that nobody can dispute. Not a single member of the Council of Farms and Markets up to and including this minute has attempted to make any kind of an answer to it. They have simply rested back perfectly quiet and the bills carrying the recommendations into effect are introduced in both houses and there they are asleep.

Now let us see what that has to do with this. There is no more important department of this government than this Council of Farms and Markets. Aside from the Educational Department and the Department of Health this is the most important public department that the State is supporting. If properly managed, if properly handled, if properly directed, if intelligence was displayed in its management the very least that the people of this State would get from it would be an accurate knowledge of what it is doing on this important question of food production, transportation and distribution. It is a mortal sin to have to support this department with the very generous appropriations that it gets and then not have it function. It is one thing to be denied the service but it is an entirely different thing to pay very well for it and then not receive it.

There is asked for in the budget for 1920 for the agricultural activities of the State and its supervision $3,155,420. Now that is what it costs to run the department and aside from the enforcement of regulatory statutes absolutely nothing is being accomplished by it.

The Police Departments of the different cities, the sheriffs, the district attorneys, any ordinary police force could enforce the regulatory features of the law but the great, prime moving reason for its existence and for this enormous appropriation, the stimulation of agriculture, the regulation of the production and distribution of food, is being entirely lost sight of and nothing is being done by this enormus political machine. It is responsible to no branch of government, responsible to nobody.

The audience listened in something like amazement. Smith grew even more emphatic. There is not a man in the Legislature he said willing to stand up and defend this condition. They can make no answer to the people. They have made no attempt to do it.

But, he continued, that is not all: There are a number of other very important legislative matters pending that affect the health and well-being of the people of this State that have been recommended by me in my first message or in subsequent messages. I have asked for legislation to define the State policy with regard

to the development of water power. During the month of July I went up on the canal between the City of Albany and Champlain. As we rode along in the boat, on the left bank of the canal, going north, great big industrial establishments and great big factories were using all of their energy turning all their wheels bringing forth every ounce of their product with power developed from the water on the left bank of the canal. On the right bank, the property of the State of New York, that which belongs to us, with the identical water power, equal in force, equal in value, is running to waste. At two points of the canal within striking distance of the City of Albany sufficient water is running over the dam to generate electricity enough to light the City of Albany, the City of Troy, and two other cities. What is the matter? What is the trouble?

What great business concern, Smith now asked his hearers, would sit by and permit that great waste? Here is the problem, he added: You have three groups of men in the State studying water power. The first group is made up of men who give the right to develop this to private individuals for a small return. The second group believe in development by the State and then turning it over for private lease thereafter. The third and the right-thinking—not radical—group believe in development and ownership by the State!

I stand with group No. 3. There is no question about where I stand. I have put it into my public messages and into my public papers. I fought for it for years in Albany and I was the instrument that kept out of the Constitution when it was written for submission to the people the part which omitted to provide for electrical development. Bills declaring that policy are lying in Albany alongside of the Milk Commission bill and the food bill. And it will die the same death unless there is an arousing public sentiment clearly indicating that the people want the development of their water power resources along these lines.

Smith told them next he had asked for amendments to the Workmen's Compensation Act extending its benefits to

men suffering from occupational diseases. "Perfectly simple thing!" he exclaimed. There is absolutely no reason why the act should not give relief to the wife, the children, and to the man himself who suffers from any disease because of his occupation. Smith said that in his message the previous year.

And one of the most prominent representatives "only Tuesday of this week" said it was "passed last year!" Smith looked at him for a minute. "Did you read my message this year?" he asked. The other said he had not. "Do you think" asked Smith, "I sit in my office this year recommending what had been passed last year?" That, he said bitterly, is how much attention it received!

I have for years urged the creation by law of a Wage Board to correct what to my way of thinking is a great industrial injustice. I advocate Wage Boards for the fixation of living wages for women and children in factories and mercantile establishments; exactly as the State regulates their employment. In the interest of public health, this State can with equal force say to anybody that it is just as cruel and just as inhuman to underpay a woman as to overwork her. I have heard no argument against it. It is simply put down on the list of bills not desired by certain reactionary interests—the Manufacturers' Association.

They have organized in the City of Syracuse and call their organization the League of Americanization. Under the guise of spreading the doctrine of America's free institutions, they are throttling free speech and issuing an insidious propaganda against the legislation introduced for the health and well-being and morals of the people of this State.

An organization that starts out with its avowed purpose, throttling free speech and shutting off debate and preventing men by the power and influence of their machine from expressing themselves has to have its allies. Of itself it is not a very potent force and it usually comes to the place where you least expect to find it looking for an ally, so that everybody may be lulled asleep.

There is a man in New York City, Smith reminded them, by the name of Hearst. "He makes the finest kind of an ally that they can have at this time. And make no mistake, he is the kind who is very effectual! In what way? All last Summer and last Fall when there was nothing that anybody could do, when there was nothing that the Governor could do, his morning and evening newspapers carried whole columns and cartoons about the awful condition down in New York." Smith spoke in his best manner as he made these sarcastic remarks. He enlarged upon Hearst:

That was the time that he was venting his spleen against the Governor personally because the Governor was only satisfied to regard him as a friend but wouldn't look upon him as a boss. Now that we are in the front row trenches, now that we are battling, now that we are face to face with the real common enemy of the interests of the people who want this legislation, where is Hearst? The day of the hearing, up in the corner of his Gazette, was just about an inch saying it happened; and just because the rest of the newspapers carried in broad headlines that there was real activity, he came out the next night with a whole page editorial denouncing the Governor, saying the Governor was insincere.

In desperation to try to make somebody believe that there was really something to his own paper, he has to advertise in two column sheets in the other newspapers. This is supposed to be a letter from a school teacher. I know as many school teachers personally as any man in the United States, and I know their habits of thought, and I feel a certain security tonight for the future of this State and the future of this country because I believe that school teachers think along right lines.

Of course, you can take that either way you please. I am reading it, jumping over you know, like years ago up in the Assembly, poor old Ed Merritt, from St. Lawrence County, who was the majority leader, and he had argument one day with a man on the floor. This man was reading a certain bill and in reading the bill he was jumping from one place to another in it.

At Eighteen and in the Real Estate Business

Ed said to him, "Now wait, now wait, don't do that. Don't read that bill that way. That is not the way to read it. You can't get regular sense out of it in that way. If I read the Bible the way you are reading that bill, let me show you what I could find in the Bible?" So he said, "I will open the Bible and I read at the top of the page, 'And Judas went out and hanged himself.' Then I will open at the top of another page and I see, 'And Christ, speaking to the multitude, said, 'Go thou and do likewise.' "

That won't happen in my manner of reading because I will take each subject as it stands. This school teacher says, "Editorially the New York American is in a class by itself."

"The New York American is a mighty educational force among the people. I express admiration for the wonderful work that it is doing for Americanization among our school children." Let me say here tonight—because I like to say it; I like to say it because it is so true; I like to say it because there is so much meat in it, exactly what I said from the platform in Carnegie Hall that was printed broadcast throughout this country and went right out into his own home in California, if the Hearst newspapers and their editorials were the textbooks for the children in our public schools, what would they have to believe about America? They would have to believe that no man, no matter who he was, ever was elevated by the voters of his own people to important public office and thereafter remained true to them.

Speaking about the unrest, Smith added, it is quite natural —"after a great conflict such as the whole world was engaged in, practically the whole world for four or five years,"—that from it must come some unnatural conditions. The government took a particular control over the country, over the business of the country, justified only by the power of the President as the Commander-in-Chief of the Army and Navy, justified under our constitution and under our laws only by the stress and emergency of war and as soon as the Government realized its grip, there had to come certain forms of unrest and of dissatisfaction:

What is our duty? Our duty as a people and as a State is to allay it, if it can be; listen to it—that which is right, that which has behind it justice, should be, if it can be, remedied by the government itself, but you can't do it by throttling up free speech. You can't do it by taking the bills and putting them into the waste paper basket and denying the representatives of the people a free opportunity to talk about them. Nothing that I can think of would go further to promote that unrest and to give a real reason for it, even though an artificial one may now only exist.

Everybody has the freedom of expression through representatives and by communicating with them and letting them know that there is behind these bills—this bill for a milk commission, the bill for food control, the bills for proper inspection of cold storage warehouses, the bills for licensing dealers in food so that the State can have some grip upon them, the bill for minimum wages, the bill for the development of water power, the bill for the extension of Workmen's Compensation, bills regulating and changing and reorganizing the Council of Farms and Markets, bills making stronger, making better and more effective the Workmen's Compensation Act, increasing the amount of money to be given to the widowed woman for her children upon the death of her husband by accident—all these things are matters of concern to every man, woman and child in the State.

It is with you. I say to you from the bottom of my heart that I believe we are right. I wouldn't hesitate for a minute, if I thought there was anything about this legislation that wasn't for the best interests of this State and its people—I would let it fall myself even in the face of adverse criticism from those that wouldn't understand it, but I believe it is right, and that is why I am standing for it, and I have a heart full of gratitude for everybody that came tonight to make this meeting a success so that this message going through the press may be heard throughout the State.

CHAPTER XXVI

Agriculture

A wide-awake legislator of eleven years' experience at Albany learns many things about the State government which is a sealed book to the ordinary citizen. If he happens to be a good mixer, the legislator gets an inside track on the State's agricultural policy reserved only to the knowing few.

Assemblyman Smith frequently attended county fairs and the State fair, the big yearly event for the farmer folk. He enjoyed a large acquaintance among the leaders of the farmers and in the unreserved intimacy of a social hour among them, he learned the truth about agricultural conditions and the underlying reasons for certain State policies affecting them, withheld on formal occasions or in prepared public speeches and statements.

From this illuminating social intercourse a conviction grew upon him that the rank and file of the farmers were being duped. A group of politicians who claimed to represent the farmers and who built up a political machine in the Republican party in their own interest and not for the benefit of the rural population of the State comprised a ring. He saw the jobs manufactured in special legislation for these leaders and their friends. He watched appropriations flowing in their direction but he saw little done that was of substantial advantage for the mass of the farmers who were in need of real aid.

With a rich store of this knowledge in the back of his head, Smith advocated an agricultural policy which hit the

professional political elements among the farmers where they lived. They knew it. They resisted his efforts. They were aided by the legislators of the Republican party which used this agricultural machine to roll up the rural vote on election day.

The agricultural section of his first message indicated his point of view and suggested a policy which he was soon to make irritatingly concrete to the agricultural political crowd in a special message which he sent to the Legislature on April 7, 1919. He proposed to eliminate useless jobs and to make out of a patronage-ridden inefficient department an effective agency working in the interest of the agricultural population of the State. Hence he wrote in his plea to the Legislature:

I desire to call to your attention a condition in the Department of Farms and Markets that, to my way of thinking, needs remedy.

The Council of Farms and Markets was created by an act of your honorable bodies in 1917. It was patterned after the State Board of Regents and was intended to create a condition in the agricultural affairs of the State that would take them entirely out of the realm of partisan politics. The bill provided that there should be two divisions, one headed by the Commissioner of Agriculture and one by the Commissioner of Foods and Markets, both appointed by the Council, and provided numerous functions which should be carried out by the Council itself. It also created a number of Bureaus to be under the direction of the two Commissioners. It is apparent to all that the plan has not worked well in operation. The Council itself has been unable to perform many of the functions given to it, and instead of being an advisory body, as undoubtedly was intended, it has been loaded down with administrative duties, which it has been unable to carry. It is agreed by everybody interested that the plan of two administrative heads and divided authority has also failed. I have reached that conclusion after taking counsel with many interested in agriculture, food distribution and farm-

ing interests generally. I have held meetings of the various agricultural societies and groups throughout the State and have confirmed my opinion that the only way to get this important function of our government out of the political arena and give it stability and permanence is to confer the power upon the Council to appoint a single head to be responsible to the Council and to the public at large for the proper functioning of the various bureaus, which are necessary for the best interests of this department. I believe that the Council as composed today, if left to itself, can find a man forceful and able enough to reorganize the entire department, which is undoubtedly overmanned, extravagant, theoretical, and too far removed from the very people it was intended to assist. As it stands today, it lacks force and initiative and seems to be chiefly concerned in the enforcement of regulatory statutes. While that is absolutely necessary, it is also necessary that the Department initiate movements looking towards stimulation of production and a solution of the questions of distribution. It is not my purpose to outline what, in my opinion, could be done to make more efficient this important bureau of our government, but I do feel free to say that the eighteen bureaus with high-salaried directors and assistants, for the most part new men placed over the heads of old employees of the department, have produced an organization top-heavy and unwieldy. I believe very firmly in the efficiency of a single-headed Commission. I believe that the agricultural law should be amended so as to continue the present Council of Farms and Markets as now constituted, but that their functions shall be purely advisory, and that they be given the power of appointing a single Commissioner of Agriculture with a salary ample enough to induce a man of the highest attainments in these lines to take the position. I believe also that he should be given absolute power to revise the division of work in the department and that he should not be hampered by the present provisions, which continue in existence the various bureaus making it mandatory for him to continue the functions as they now exist and being unable to direct the departments as he chooses in the best interests of the State. I therefore call to your attention the advisability of immediately enacting a measure

to revise the law so as to embody the changes stated, and appropriate a lump sum of money sufficient to enable the new commissioner to reorganize and revise in any way in which to his judgment is best, the various bureaus. To accomplish this properly, I stand ready to veto the items in the general appropriation bill for this department and to sign a bill embodying the above suggestions and making appropriation generously sufficient for the reorganized department to carry on its work for the fiscal year beginning July 1, 1919. My sole desire is to do what is best for all the people of the State, and I can attribute to your honorable body no less desire. I therefore ask your immediate consideration of the bill embodying the above suggestions, which has been prepared and which will be introduced immediately.

He supported his recommendation by a number of impartial studies of the department. Particularly enlightening was the report of George Gordon Battle appointed by the Governor Commissioner under the executive law to investigate the organization and management of the Department of Farms and Markets. He gave chapter and verse proving inefficiency and even questionable practices. Again the Governor urged his reorganization program in his messages transmitting the report.

He made, in fact, a number of public addresses on his agricultural policy. At a meeting of the New York State Agricultural Society on January 20, 1920, he set forth his aims and his program in the following address:

As the Governor of the State I am personally dissatisfied with the present organization of the agricultural interests in this State. By that, I mean that I am not satisfied with the regency idea as attempted to be carried out by the Council of Farms and Markets. I do not believe that it is successful. I do not believe that it is doing for this State what could be done for it with a similar appropriation. I believe that our agricultural interests will best be promoted by a single, responsible head. I would look to a Commissioner of Agriculture in this State as

probably next to the Commissioner of Education being the most important single official in the whole State, and if we can afford to pay a Public Service Commissioner, of which we have to have five to make up a Board, a salary of $15,000 a year for the regulation, the very meagre regulation that the law permits them to exercise over public service corporations, we certainly can spend $20,000 or $25,000 for the biggest agricultural expert that this country has and put him at the head of the agricultural interests of this State, and give him some power along with some responsibility. There is nothing very radical about that. It was the accepted procedure in this State for a good many years and under certain commissionerships it was highly satisfactory. . . . Now we have an elaborate regency, all very good men. There is not any doubt about that. Stand them here on the Assembly floor and representing the various judicial districts of the State, they are probably the foremost in their districts, but you cannot carry any job to a successful conclusion that is handled by 6, 7, or 10 men. We have been all through that. The government has been through it. We had the lesson brought home to us with a great deal of force during the period of the war. When we were fighting we had to bring to our men the very best that we had, and invariably that led us to the idea that a single-headed responsibility, one man you can look to, that you can hold responsible, and consequently give him responsibility and power. The law as it reads today attempts to give certain power to the Commissioner of Agriculture, to the Chief of the Division of Agriculture and the Chief of the Division of Foods and Markets, but all that power in the last analysis is exercised through the Council. What is that power? Nothing more than a wonderful bureau of investigation, absolutely lacking in initiative, which is the one great thing we need, the one big thing the State desires, the one thing that you can expect from a single, responsible commissioner and that you will never get from a council of this kind. It is idle talk to say you can erect a regency over agriculture as you do over education. There is nobody pulling against education in this State. It is an entirely different subject. It is another matter. If you want to find some way of

perpetuating a good commissioner when you get him in office, either elect him by the people for a long term, or have him elected, if you please, by the Legislature for a long term. If you get the right man it makes very little difference how you get him. In the last analysis when all is said and done, the regency over education is wholly an advisory body and the real moving spirit after all is the single-headed commissioner of education controlling his deputies in the various activities of that great department. I would have the Commissioner of Agriculture be the man who would have something to say about the appropriation of every dollar of State money for agriculture in this State. The present Council has not got it. You have a number of agricultural schools spread out all over the State, their management resting in the hands of their respective Board of Managers. No co-ordination whatever, separate and distinct agencies all operating according to their own notions and their own ideas, removed entirely from any central authority or power, in many instances resulting in constant quarreling between the Manager and certain of the Directors as to procedure. Particularly is that noticeable in the school at Farmingdale.

In the budget of 1920 I have recommended for agricultural schools, including the Experimental Station at Geneva, $2,159,730. That is a very generous and a very liberal appropriation. There is no one in this State who controls it after it is appropriated.

The Speaker mentioned the State Fair. I would have the State Fair come under your Commissioner of Agriculture. That is where it rightfully and properly belongs.

I would have a Bureau of County Fairs within the Department of Agriculture and I predict that unless that is done, in a short time your county fairs are going to lose all the semblance they ever had of educational institutions so far as agriculture is concerned. Now, I would be the last man in the world to say the children of the countryside were to be deprived of that week of amusement. The $250,000 appropriated by the State to the various county fairs is well spent if it serves no other purpose except a week of recreation for women and children in the country, but they could attend and agricultural education

could retain its place at the fair just the same. There is no reason why the horse race and the performing bear and the frankfurter man should be the whole show. They have their places, but until you have intelligent direction in your county fairs, you are wasting time and money so far as education is concerned, so far as any effort on the part of the State for the promotion of agriculture is concerned. You are wasting money, and I speak from some experience. In 1918, the fairs of 1918, I was one of the large side-shows. I was advertised ahead of time and billed ahead of time. "We have with us today the Tammany candidate for Governor"—a drawing card. It meant something for the gate receipts. I was perfectly willing to offer myself for exhibition, and I, therefore, speak of our county fairs with some knowledge of what takes place there.

When you take the Department of Agriculture and the Department of Markets out of politics you will find that the heads of the bureaus will be men with some peculiar qualifications, some peculiar training either in experience or education, to man these bureaus. Is that the case today? Everybody in this room knows it is not. There is no use fooling ourselves about it. If I was asked what I would do about it, I would say this: That if the Legislature is willing, I will stand for a lump sum appropriation made to the Department of Agriculture for its reorganization from top to bottom and allow some men who understand the business to reorganize that big department from top to bottom and let us have some confidence in it. Let us be willing to leave with them the State's money for that reorganization, and let me make the prediction that if you don't do it you are just continuing a cumbersome machine in the government of this State that will never get any place.

A survey of Smith's efforts in the farmers' interests indicates that this city-bred man was deeply interested in the needs of the rural communities and made substantial contributions in their behalf. He approved generous appropriations for the State's agricultural schools.

He approved the building of the Coliseum at Syracuse for

the holding of annual conventions of the dairy industries of the State.

He stimulated the building of good country roads in the rural districts by approving a dollar for dollar subsidy by the State for rural county road construction.

In 1922 he came to the relief of the farmers by approving an appropriation of five million dollars to reimburse them for the slaughter of their tubercular cattle by the State. Half of this sum was incurred by the preceding administration and he risked the charge of extravagance by adding so large a sum to his annual budget. He was unwilling to make an economy record at the expense of the farmers who could not stand the financial strain of an unpaid State debt.

The Rural Health Bill passed as a result of conferences with leading medical authorities of the State called through his initiative and meets one of the most neglected needs of the rural communities in the State—proper medical attention and hospital facilities in communities where doctors are not attracted to practise.

Efforts of the State Education Department and public spirited citizens to pass legislation enabling rural communities to unite and to co-ordinate their school facilities to secure for country children the modern educational facilities city children enjoy, have found him a consistent supporter, and just recently he approved legislation promoting co-operative marketing among the farmers of the State to enable them to enjoy the benefits of common effort which the co-operative movement among the Western farmers has clearly demonstrated.

In his policy for the farmers he has been no less the progressive than he is in his program for justice to the industrial workers.

CHAPTER XXVII

Welfare Legislation—Debate on the Barnes Amendment

No question considered by the constitutional convention was more basic and far-reaching in its effects on State policies dealing with social problems resulting from an industrial society than that presented by the Republican leader from Albany County, Mr. William Barnes. His influence in the Republican party extended throughout the State and even to the national organization. Mr. Barnes was the leading opponent of Theodore Roosevelt and the Progressive party in New York State. In the National Convention of 1912, Mr. Barnes was a tower of strength for the Republican Old Guard. He had helped considerably to win their fight for control of the Republican organization.

Barnes submitted a proposition in the form of a constitutional amendment that "the Legislature shall not pass any bill granting hereafter to any class of individuals any privileges or immunities not granted equally to all the members of the State."

He later accepted the following amendment to his own submitted by Mr. Olcott: "The Legislature shall not grant any privilege or immunity not granted equally to all the members of the State."

In an eloquent address Mr. Barnes defended his thesis by declaring that it represents the theory of equality upon which American institutions are based. In recent years, he con-

tended, the social legislation advocated by popular leaders and passed by legislators was in violation of this American principle.

Mr. Barnes' address was an exposition of an abstract conception of equality. It had all the logical cogency of an Eighteenth Century political philosopher. He classed the advocates of social legislation as potential socialists who, with the same tools that Bismarck used against the socialists of Germany—namely social legislation to buttress an autocratic state—were leading free America into the autocracy Bismarck had desired for Germany. Like Bismarck, instead of combatting socialism they were strengthening the movement. For every violation of the principle of equality naturally tended to establish its opposite, the principle of privilege which led to autocracy.

The implications of this amendment were clearly grasped by the progressives in his own party like General Wickersham, Henry L. Stimson and Herbert Parsons. They pointed out that this amendment if a part of the Constitution of the State would prevent further labor and humanitarian legislation like Workmen's Compensation, Child Welfare, and other labor legislation relieving the injustice to the workers arising from modern social and industrial conditions.

The debate represented a clash between a static conception of government and of society held with profound conviction and tenacity by groups which Mr. Barnes led, powerful industrial and rural interests and a dynamic conception of society and government held by the progressives who recognized the need of adapting laws to changing conditions and who realized that such changes resulted in the grossest privilege and in actual inequality by adhering to an abstract equality.

To remedy these abuses of actual inequality was the purpose of social legislation. They contended for the need of

adjustment in a democratic society. They repelled the notion that such adjustment was inconsistent with real freedom subject to the general welfare.

Smith participated in the debate on the progressive side. His speech was one of the most powerful justifications of social legislation presented in the convention.

To give only a brief excerpt:

> The second clause providing for or authorizing the expenditure of public money: It is said that that has reference to two things. First we will take up the so-called mothers' pension. That is a wrong name for the act. There is no pension to a widowed mother. The State long years ago adopted the policy that it was, through its civil divisions committed to the care and education of the homeless and destitute children of the State. The formation of the child welfare boards was simply a change in the method—no new policy but a change in the method. Rather than have the institution the agent of the State, the State decided that work could best be done by the mother if she was a fit and proper person, and forthwith it transferred that agency from the institution to the mother herself. The mother, as such, receives no money; or, rather, not one dollar is contributed to her for her support. Everything she does, she does as the agent of the State, just as surely as did the institution do it, and for the care and maintenance of her children, her home is temporarily turned into a State institution. Now in regard to pensions, a pension is not a payment of money for services not rendered. As long as there has been in any civilized community a pension, whether it be private or public, the theory of it was that it was an increase in salary to be paid to the man between the time he was able to render service and the time of his death.

CHAPTER XXVIII

On the Public Development of the State's Water Power

Smith stood like a rock against the private exploitation of the State's water powers. Nothing could in his opinion prove more detrimental to the public welfare. The constitutional convention afforded him a capital opportunity to prevent private interests from capturing these precious natural resources of the State.

Smith was not present when the report of the article on conservation was proposed. He was on hand very soon to make a forceful plea and to effect two amendments directed toward truly conserving the State resources. His speech and the incidental debate arising from it illustrates his knowledge of past legislation on the subject, his persuasive debating power and his influence over a deliberative body. He succeeded in securing two amendments to the conservation article, the first designed to prevent representatives of private power and of related interests from qualifying as conservation commissioners and the second made State development of water power possible under the constitution.

This story can best be told by Smith himself:

It was a matter of regret to me that I was unable to be present on the day this proposed conservation article was reported from the Committee of the Whole to the Convention for passage.

It seems to me we are setting the clock of progress, in the matter of the development of our natural resources, back at

least ten years by our action. I hold the Constitution should contain nothing except the bare statement, included in the report of the State Officers Committee, that there should be a conservation commission appointed by the Governor by and with the advice and consent of the Senate, and the make-up, membership and the details of how that commission is to be composed should unquestionably be left to the Legislature in order that it may deal with the new problems that arise from time to time.

There is a long history connected with this question of water power development in this State. It goes back to the year after the last Constitutional Convention. Beginning in 1895, it was the policy of the State, or, rather the State lacked a policy with regard to the treatment and the development of its water power resources. As a result of that lack of policy, from time to time the grants of water power in the Niagara river were such that in 1905 or 1906 it was necessary for the Federal Government to step in and put its hands on Niagara Falls in order to prevent it from being despoiled by the water power interests of this State.

At the time the so-called Burton Act was pending in Congress, it was Horace MacFarland, I believe, the President of the National Civic Federation, who made the remark that New York State's record with regard to her water powers in the past was very bad; that the State itself had jobbed out all the sacred glories of Niagara for no return or recompense whatever to the people.

An instance of how some of the grants on the Niagara river were made can be imagined from one single grant that in the terms of the contract read that the quantity of water to be taken was that which would pass through an opening or a ditch two hundred feet wide by about fourteen feet deep.

The agitation for the preservation of Niagara and the other water powers of the State was so great that Congress authorized a treaty between this country and Great Britain, limiting or holding back the amount of water that could be diverted from the Niagara river for water power purposes. Immediately after the passage of the Burton Act, and the ratification of the treaty, the water power interests of the State turned their attention

from Niagara Falls to the St. Lawrence river, and in 1907 there passed in the Legislature, and it became a law, what was known as the incorporation of the Long Saulte Development Company. Under the terms and the provisions of the charter they were permitted to dam the St. Lawrence river at the Long Saulte rapids. The conservation engineers conservatively estimated that at that point in the St. Lawrence river there was capable of development a million horse power, which, under the terms of our treaty with Great Britain, five hundred thousand of that horse power belonged to the State of New York, because the boundary line between this State and the Dominion of Canada was approximately in the center of the river.

The bill went down to Governor Hughes and he hesitated to sign it. He sent it back to both Houses for amendment, requiring that a certain percentage of the horse power therein developed was to be paid to the State of New York.

He was entirely without knowledge of the subject, as were a great many members of the Legislature. Nobody really dreamed at the time that there was granted to this power development company 500,000 horse power, the return to the State on which was something in the neighborhood of $25,000 a year. Anybody who knows anything about hydraulic development can understand very readily the value of 500,000 horse power.

Now, immediately after the signing of that act, Governor Hughes realized what he had practically given away to the water power interests, and he insisted upon the passage of a bill immediately after that which very clearly defined what was to be the future policy of the State.

After continuing with this subject in the minutest detail, Mr. Smith met arguments in debate, and then proposed his amendment, which was carried..

CHAPTER XXIX

The Literacy Test and a Humorous Incident in the Convention

Whenever an attempt was made to abridge the rights of the mass, whether citizens or immigrants, Smith's voice was heard on behalf of the rank and file. In the debate, which waxed very warm, on a proposed constitutional article providing for a literacy test of voters, Smith relieved the tension by the following bit. Referring to the previous arguments in favor and in opposition to the literacy test, he said:

Now, I do not know any better food for the Socialists and the Anarchists or any better thought that the wild-eyed Socialist can have in his mind and shout from the street corners, that goes to the foundation of the State and the dissolution of the Union, than to be able to point to the fact that a man owning property, participating in the benefits of the government and upholding the government, is refused a voice in the management of that government through the ballot, simply because he cannot read English. We have sent one Socialist Congressman from this State, one Socialist is sitting in the Congress of the United States from this State, and the reason it took them so many years to elect one is because we have by their constituency taught them that all men are equal in this State, that they have the same opportunity and the same chance with their neighbor. During my membership in this House, a Socialist from Schenectady sat on this bench and when he found that the debate was open, free and unrestricted and he was enabled to participate absolutely freely in the discussions that came before the Assem-

bly, and he found that seventy-six votes and seventy-six only did anything in this chamber, he went immediately down to the Ten Eyck barber shop and got a hair-cut. (Laughter.)

Now, in 1908 or 1907, there was written into the election law a provision that in New York City or the Metropolitan district, a man had to sign his name when he came to register. I opposed that very bitterly, in this House. I watched its operation and it was a surprise to me to see the number of men who were able to speak the English language, that were not able to write their names in English. Some of them were fathers of families. One I have particularly in mind whose son is as bright a lawyer as any practising at the bar in the city of New York to-day, and I would not advise him to take his hat off to anybody, and his father struggled through the long days and nights to educate the son and the rest of the family and he was not able to read the language, although he fluently spoke it. And there are a lot of good readers and writers residing down in Mr. Osborne's Riverside neighborhood that cannot only write their own names but somebody else's as well.

He meant in the State Prison at Sing Sing!

Speaking in New York City eight years later he defined his conception of citizenship:

Now, let me see what a good citizen is. How do we measure him? What is the yard stick? What is the standard? I come from a good, old-fashioned neighborhood where the city began. In that neighborhood I met a great many of our citizens in my time, and it gave me my idea of a good citizen. I believe him to be the man who puts everything he has in him into the job to which he is dedicated that helps to keep open the channels of trade and of commerce, who raises a family and gives them all that he possibly can to let them have the benefits of an education which he himself was probably denied. A man who pays obedience to his church, who obeys the laws of the State and the ordinances of the city—that is my idea of a good citizen.

CHAPTER XXX

Defense of Social Legislation

Congressman Herbert Parsons proved a tower of strength to the progressive forces in the constitutional convention interested in adopting the constitution to changing social and industrial conditions. It was he who submitted an amendment providing that "the Legislature shall have the power to regulate or prohibit manufacturing in tenement houses."

Mr. Parsons stated the purpose of the amendment in the opening of his speech. It was desirable, he said, to insert in the constitution some such provision as this in order to overcome the Jacobs case, cited by the Court of Appeals some years previously. The Court held that it was unconstitutional for the Legislature to pass a bill to prohibit manufacturing of cigars in tenement houses. The result of that decision had been to raise a doubt as to the power of the Legislature to deal with sweat shops.

The amendment was opposed by Mr. Barnes on his general theory of not abridging the right of individual freedom. Other upstate delegates feared that the Legislature might define a tenement so as to prohibit cheese-making in a one-family home. Others feared prohibition of manufacturing in homes under housing conditions in small towns which were not socially harmful. After some parleying among the delegates as to the definition of a tenement house under the statute, and concerning the scope and implication of the decision in the Jacobs case made famous by Theodore Roosevelt

in his Progressive party campaign of 1912 for social justice, Smith took the floor and clarified the atmosphere with the following address:

Mr. A. E. Smith—I just want to make answer to one or two suggestions which have just been made. I think that the history of the operation of the Legislature, or the dealing of the Legislature with this question, of tenement manufacturers, has been long recognized as along wise and sane lines, and that there can be nothing to the contention of my friend, Mr. Leggett.

If, however, this Convention believes that at any time in the future the Legislature would be so stupid in its handling of this question as to provide that a man could not make cheese up in his house on the farm, why then they had better not put this into the Constitution, but I don't think you can get many men to follow Mr. Leggett's idea along that line.

All legislation on this question is after investigation; it is with a knowledge of the facts. No man would come to Albany and put a bill in the box prohibiting manufacturing in tenements right away. You could not pass any such bill as that. I would be the last man in this Convention to vote for any such bill as that. But what we want to do is to leave the power with the Legislature for the proper regulation of something that it has been doing right up to the session before the last.

Now, my friend, Judge Dunmore, refers to it as social reform. It is not social reform. That is not the theory which is behind legislation which regulates manufacturing in tenement houses. It is for the welfare and the benefit of all the people of the State and the health of the community, as I will show in a very few moments.

Now, Mr. Barnes, of course, quotes a decision with which none of us disagrees, but sometimes it is more interesting to know the facts that led up to the decision than it is to read the decision, and it is more interesting to find out whether it could apply to an entirely different set of circumstances.

Now the facts that were presented to the court, to just take a second of your time, in the Jacobs cigar case, were these: The facts as they appeared before the police justice were these. The

relator at the time of his arrest lived with his wife and two children in a tenement house in New York City, in which three other families also lived. There were four floors in the house and seven rooms on each floor, and each floor was occupied by one of the families living independently of the other, who did their cooking in one of the rooms so occupied. The relator at the time of his arrest was engaged in one of his rooms in preparing tobacco for making cigars, but there was no smell of tobacco in any part of the house except the room where he was thus engaged.

So that the evident intent of the statute held unconstitutional here was for the protection of the health of the other occupants of the house, and the facts are such as to establish that there was no occasion for such a statute in this particular case, and the gentleman from Albany would not hold that that would be true in the light of the facts about tenement manufacturing that were disclosed in the recent investigation.

Now, the State has undertaken the regulation of tenement manufacturing. That is not a new thing. That has been in the Labor Law for some time. Section 100 of the Labor Law provides for the licensing of tenement houses in which there is altering, repairing or manufacturing of articles of any kind. But, as the Congressman told you, because of the great number of tenement houses, because of the great number of apartments into which all of these tenement houses are divided, a proper regulation of it by the State is nearly impossible. The corps of inspectors that would be required would be more than that activity on the part of the State would warrant.

There has never been any question of any legislation under the police power, where it could be shown that the regulation was for the health of all the people of the State. For instance, we provided by law some time ago that certain articles of clothing were not to be manufactured in tenement houses and we excepted from that articles that had to be laundered before they were worn, consequently showing that the Legislature some time ago, before the days of the Factory Investigating Committee, had in mind the care and the protection of the general health of the people of the State in dealing with this question of tenement-

made goods, so that germs of disease might not be carried from the tenement in clothing and stuff there manufactured, and anything that was laundered was exempted from it.

Now, as a result of our investigation, we undertook to amend the Labor Law, and it is contained in Section 104, and I believe that it comes dangerously close to the reasoning in the Jacobs case, but the Court of Appeals in its recent decisions in all of these kinds of laws have taken into consideration all the facts.

Judge Hiscock in his opinion in the night-work case distinctly said that the opinion of the court was influenced by the evidence that was produced to show the public necessity for some of these rather drastic regulations.

CHAPTER XXXI

Smith and Labor

In a gathering of laboring men Smith is always at home. During his two terms as Governor and often as legislator it was his custom to address the annual convention of the State Federation of Labor. With the humane legislative program of the American labor movement he is largely in sympathy. When the Governor appears before them their greeting is genuinely fraternal. The friendliness of the atmosphere, the feeling that he is among his own people is impelling. His speech is filled with the vernacular that working men understand. He and his audience have a good time together.

What follows are extracts from his addresses before the State Convention of Labor at Syracuse in 1919 and at Binghamton in 1920. They cover the labor and social welfare program of his first administration.

In the morning address at the Syracuse Convention of 1919 he made some pertinent remarks on the contribution of labor during the war and upon its obligations to meet the post-war problems, especially housing.

In the afternoon session he had a heart-to-heart talk with the members of the joint legislative conference. This body was organized to carry out the legislative program adopted by the convention itself. The talk was not merely a historical retrospect of the relation of judicial decisions to a progressive labor program. It was a statement of Smith's position on the major labor and social welfare measures he advocates:

I view the matter of labor legislation from an entirely different attitude from the one in which I have seen it regarded during my time in Albany, not only as Governor for the last seven months, but as a member of the Constitutional Convention and as a member of the Assembly for twelve years. I view labor legislation from the standpoint of the benefit that I see it bring to the State itself.

During my years in Albany I have had members of the reactionary forces from time to time say to me: "Haven't you done enough this year for labor? Why not let this go over until next year?"

My attitude toward that line of questioning and that particular attitude has been that nothing has been done for labor itself; what has been done has been done as a matter of State policy for the benefit of the State.

We spend in a year countless hundreds of thousands, yes, and millions of dollars for purposes of conservation. We conserve the animal life of the State, we conserve the forests; we conserve the State property wherever it may be. But we have given little thought to the conservation of the State's greatest asset, and that is the health and the strength of its men and women.

As I have declared in the Legislature, and in the Constitutional Convention, and from the public platform in the course of my various campaigns, the State is not in the last analysis made up of great industrial centers, it is not made up of great farm lands, great forest preserves, big cities and villages; the State, after all, is people, and if its people are not healthy, vigorous, and happy in their work, the conservation of all the rest does not mean much to the State in the end.

Now, we ought to have gained much from the experience of the recent great world conflict. The Selective Draft Act, something new to this country, something not known or heard of in this generation or ever before—the Selective Draft Act, for example, brought out the fact that one-third of the men between the ages of twenty-one and thirty-one, who were called to the colors by the country, were physically unfit to fight. I cannot

believe that as a State or as a nation, we can afford to allow a lesson of that kind to go by unnoticed and simply enter into a declaration of peace and go back to our old habits and customs and let the world move along as it did before the conflict. I cannot believe that our industry, our American people, will be so blind to their own advantages as to neglect the teachings that come from a lesson of that kind. And the lesson shows us the need of legislation for conserving the health of our people.

In ten or fifteen years there has been a very decided change in public opinion with regard to labor legislation. There can be no doubt about that. We have abundant reason today to say that we are making substantial progress. When I entered the Assembly first in 1904, some of the labor legislation that afterwards came from the Factory Investigating Commission, of which your vice-chairman, Miss Dreier, was a member, could not have passed either House in Albany, could not have received any real support. It was looked upon as revolutionary. I think the Court of Appeals decision in the night work case for women is the clearest indication of the change of attitude, not only on the part of the people themselves, but on the part of the highest judicial tribunal in the State.

The law that was in 1904 regarded as a violation of the Due Process Law of the Constitution was ten years later declared to be unconstitutional upon the same set of facts. So there has been apparently, a general loosening up of the attitude of the people throughout the State, and particularly of the courts, toward labor legislation.

I speak, of course, about court decisions absolutely as a layman. I am not a lawyer, but nevertheless I have ideas of my own, and my idea is that the Due Process of the Law clause in the Constitution was never intended to prevent the State from enacting legislation to safeguard the health and welfare of the people of the State. The "liberty" spoken of in the Fourteenth Amendment to the Federal Constitution, that afterwards was incorporated in the Constitution of this State, meant the liberty of the person. It was put into the Constitution immediately following the Civil War as a guarantee to the people

that blood was shed then for a real constitutional right, and that liberty meant the liberty of the person. It meant that no person could be detained in any place against his will, or without due and orderly process of law.

But the courts afterward construed that word "liberty" to mean liberty of contract as well as liberty of person, the liberty not only to move freely in your person, but to live your own life in your own way. And the Court of Appeals said, in its first decision on the night work case for women, that the Legislature could not enact any law that would in any way abridge a woman's liberty to contract to work whenever she pleased whether it be in the night time, or in the day time, Sunday, or any other time. But the same court afterwards sustained the very same law upon evidence before the court adduced by a committee that was itself the creation of the Legislature. This evidence held that that law was enacted to safeguard the health and the welfare of the women of the State, and to protect the health of the future citizens of the State, and that therefore it was a proper and lawful exercise of the police power of the State in the interest of the public welfare.

Speaking of the legislation which interested the women of the Women's Conference, and interested labor, and, for that matter, interested the State itself, there were a number of important measures introduced and passed in the Senate during the last session of the Legislature. Seated on the platform is Senator Davenport from Utica. Senator Davenport and myself belong to opposite political parties, but I want to pay this tribute to him in this public place, that when it came to legislation in the interest of men, women and children in this State, Senator Davenport was neither a Republican nor a Democrat; he was a State Senator with a proper understanding of legislation. And I think I conferred with him during the legislative session about as often as I did with any member of my own party.

The Health Insurance bill was his own act. He passed it in the Senate. I will not speak upon it because he is full of the subject, knows a great deal more about it than I do, and has given it a much greater study than I would be able to give it, with all my other duties.

The eight-hour law needs no discussion. It passed the Senate and was not reported from the Committee on Rules of the Assembly.

The amendments to the Workmen's Compensation Act, extending the benefits of that act to men suffering because of occupational diseases, also passed the Senate, but it was not reported from the committee in the Assembly.

As for the extension of the Workmen's Compensation Act, there is no doubt in my mind that the framers of the original constitutional amendment permitting the enactment of workmen's compensation insurance in this State believed that it could be applied to occupational diseases. The problem hinges on that word "injury." Now an occupation can injure a man in ways other than by accident. A man who suffers from lead poisoning because of his occupation is injured by that occupation just as much as if he was accidentally hit with something in the performance of his duty. This was discussed at very great length in the Constitutional Convention, and my recollection of it is that the ablest legal minds in the Constitution held to the theory that the Legislature could enact legislation extending Workmen's Compensation Act to take care of occupational diseases.

It proves nothing that the attempt to write it into the Constitution was defeated. There were attempts made to write numerous things into the Constitution that the body itself agreed could be done by the Legislature. It was offered simply to safeguard the constitutional provision and to take out of it any possible element of doubt that may exist regarding the ability or the power of the Legislature to extend any of this labor legislation. In fact, there was introduced in the Constitutional Convention a provision which specifically said that that section of the Constitution dealing with the due process of law had no application to legislation that was enacted to protect the health or welfare of workers. This opinion was laid before before the Committee on Industry, Labor and Industry, of the Constitutional Convention as a resolution and was reported from that body, although my recollection is that it was not adopted by the convention itself.

The same thing applies to the minimum wage law for women and children. While the attempt was made in the Constitution to write into that document in so many words the delegation of power to the Legislature to enact it, the belief still exists that it can be enacted and should be enacted. It also is one of the bills that passed the Senate and was lost in committee in the Assembly. It gives us no new principle in the government of the State. The municipalities themselves are fixing minimum wages for their own employees. A strange thing about it, a strange thing about all the labor legislation, is that there was practically no debate upon it. The opposition, if there existed any, was never made known. You know you can't conduct a one-handed debate. In order to have a debate there must be two sides presented. I never heard anybody make an argument against the creation of wage boards.

I remember in the Constitutional Convention one of the members talking against it read about something that happened in England in 1320, when there was a movement on the part of Parliament assisted by the Crown to fix the price of provisions or supplies of some kind, and that was urged as an argument against the creation of wage boards to fix minimum wage rates for women and children.

This legislation means progress, and I do not have to tell a man or woman in this hall to-day that progress is hard to make. It is very difficult. Take any great labor reform and make a study of how long it took to enact it in this State; the Workmen's Compensation Act, probably the most forward looking piece of legislation of its kind ever enacted in this State, was a long time being put through. The people themselves at a general election were obliged to amend their own Constitution before we could get that legislation and organize a commission in this State. But I am optimistic enough to believe that we have arrived at a point in this discussion where public sentiment will be strong enough behind this progressive legislation to put it through.

There is one other subject that I want to speak about, and that is the operation of the State Fund and the State Industrial

Commission. When I came into office I had in mind that during the campaign I spoke very vigorously against the law that provided for direct settlements between the insurance companies and injured men or women. I fought it in 1915. I was in the minority, the steam roller crushed us down the Senate's aisle, and the law went into the statute books of this State. After an investigation of some of the awards made by agreement between the injured and the insurer we produced sufficient evidence to put through a bill abolishing the direct settlement at the last session of the Legislature, something I didn't think was possible to do, but the evidence was so strong that they couldn't get away from it.

I want to say here to-day that I have confidence, absolute confidence, in the State Industrial Commission. Nevertheless, I owe it to the Commission, and in this the Commission stands with me; I owe it to the working people of the State and I owe it to the business people of the State, to have that law such that industrial insurance must either cost less to the manufacturers of the State, or the injured man must get more. A comparison between the rates in this State and the rates in the State of Ohio shows that either our manufacturers are paying too much, or our injured men and women are getting too little. One of the two things must be the fact, and before we finish we will find out just what the real situation is and do what can be done to remedy it either by administration, which the Commission is now doing, or by legislation if the Commission cannot remedy it by administration.

His 1920 "annual message to the State Federation of Labor," as he termed it, accounted for some of the progress made in furthering the Governor's labor and social welfare program which the Federation actively endorsed and supported. Among other topics, he referred to a statute in which labor was deeply concerned. It permitted the State to extend the benefits of workmen's compensation insurance to men who suffer because of occupational diseases. Smith felt that it was the intent of the constitutional amendment

permitting workmen's compensation laws, to legalize this part of the statute. Some lawyers thought the amendment had reference only to accidental injury. Nevertheless Smith thought and said that a great deal had been accomplished when statute law was made to recognize the constitutional amendment as comprehending illness brought about by an occupation which in itself and by its very nature is harmful to the health of the worker.

CHAPTER XXXII

On Living Wage for Women and Children in Industry

The reports of the State Factory Investigating Commission made a profound impression upon leaders of progressive thought throughout the State. Even after its influence was registered in the enlightened labor laws of 1911, 1912 and 1913, its studies continued to stimulate thought and action along humanitarian lines. In the debate on the living wage, Smith based its necessity for women and children upon the results of the Commission's investigations.

His address on the living wage in the Constitutional Convention presents a cause for which he was to wage many a battle with his political opponents. The fight is still on.

The Chairman—Mr. Smith has the floor on general order No. 55.

Mr. A. E. Smith—Mr. Chairman, this is intended to give to the Legislature the power, either by its own action or through any properly constituted agency, to prescribe a living wage for women and children employees. This comes to this body as a recommendation from the State Factory Investigating Commission. It was continued in 1913 after being in active operation for two years for the express purpose of investigating the question of salaries and wages paid to women and children employees in mercantile establishments and in industrial occupations.

The exact wording of the report subscribed to by the majority of that Committee, and, as I understand it, by the minority representatives as well, removing it entirely from the question of

politics, was, briefly, as follows: "After careful deliberation and study of the results of its investigation and the testimony taken, the commission has come to the conclusion that the State is justified in protecting the underpaid women workers and minors in the interests of the State and society. It finds that there are thousands of women and minors employed in the industries throughout the State of New York who are receiving too low a wage to adequately maintain themselves in health and decent comfort. The commission believes that this unjustly affects the lives and health of these underpaid workers and believes that it is opposed to the best interests and the welfare of the people of the State."

The evidence taken was something like this: Let me read you one or two paragraphs from the evidence:

Subject: "Living on Six Dollars a Week," by Esther Packard, one of the employees of the commission. "How do they manage to do it? In what mysterious ways do girls stretch a less than a living wage into a living one?" is the question which the public most often asks when it hears of girls living on five, six and seven dollars a week.

"Miss C. W."—this is an actual conversation had with a working girl in a department store. The names are not mentioned. The initials are given and all the facts, the right names, the addresses, all the circumstances and the name of the department store are in the possession of the Factory Investigation Commission.—"Miss C. W., a department store clerk, answers quickly, 'When I have to pay for a pair of shoes or something like that, I don't buy meat for weeks at a time.' 'You see yourself the only thing that is left me to economize on is food,' says another department store clerk; 'I never eat any breakfast at all. By experience I found that was the easiest meal to do without.' Annie B. reasons thus: 'When I don't spend any money on pleasure and only what I absolutely need on clothes, how else can I economize except on food? What else is there to do?' "

The State, not in the interest of the worker, not in the interest of the individual, or a class of individuals, but in the interest of the State itself has undertaken to regulate this question of woman and child labor. If it is essential to fix the number of hours that they are to work and fix the time that they are to

work, prevent them from working in the night time, is it not only natural to say that the State should have power to say that they shall not be worked at a salary less than sufficient to keep them in health and in decent comfort?

Now, one of the arguments against the minimum wage that can be dissipated into thin air by a wave of the hand is the argument that it may some time be made to extend to men.

Everybody around this chamber knows that by labor unions and by labor organizations men have it in their power, and they do to-day, exact a certain minimum wage. I had the personal experience one time as a trustee of public buildings upon the repair work on this capitol after the fire. I found that the Bricklayers' Association of this country had fixed the minimum wage for this county; that it was a different one for New York county; varying, I presume, with the cost of living or with the surrounding conditions. They had the strength and the force because of their organization to demand a minimum wage, and it is fixed, if not by law, it is so thoroughly fixed by custom, that you cannot conduct a public work or a public operation in this State without a full recognition of that fact.

Women and children have no organization. No woman goes to work, or no young girl goes to work with the intention of forever working in the department store or a shirt factory or in a shirtwaist manufactory. She goes there for a start in life. Her ultimate desire is the desire of all women, that she have her own home and her own family. Consequently they never organize. Consequently they are without the power to present their claims, and it is proposed by this Legislature that the State itself help them to present the claim.

A great many people say a minimum wage interferes with individual bargaining and it interferes with the rights of the people. Not at all. Not at all. This is really an inhibition rather than a minimum wage. This wage board says, 'You can make any bargain you will with your employer; you may make any arrangement as to salary which you please among your classes, but in the interest of the State and of society, you cannot pay less than this amount for this age girl in this part of the State.

I was very deeply impressed by the testimony which you will

find was given by the president of the National Cloak and Suit Company, the largest employer of women and children in the State, and the very thing, the very principle that it was sought to write into this Constitution, that great company has had in operation for a long time. Not only have they conceded that there was a minimum below which they should not pay anybody, but they have felt that there rested on them some duty to continue the education of every young girl who was obliged to go to work for them.

Now, what is the effect of it upon the employer? The effect is that he gets better work. Professor Brandeis, before the Committee, quoted a great English authority that a railroad costs the same per mile to complete it, whether you pay a man two cents a day or two dollars a day, and it is predicated on the reasonable and unquestionable theory that you get what you pay for; no more and no less.

There is another side to this, too, which deserves something of our consideration. We have spoken of what must be the natural effect upon health. The girl who is insufficiently paid, and improperly clothed will in time become a charge upon the State. About that there can be no question, and if she is to be the mother of the future citizens, look straight and deep down into your heart for a moment, and see what we are looking forward to, if the State refuses to bring them up in health and decent comfort.

There is another side worthy of consideration. I will quote from a part of the testimony of one of the investigators. There is the moral side. It is an awful weight! It is an awful temptation!

One of the investigators went out and among the employees of the mercantile establishments and in the course of her testimony she said:

"I do not think the problem ever presents itself to a girl, 'Shall I sell myself in order to make more than six dollars a week?' But the absence of amusement, the barrenness and the ugliness of life, the whole thing combined with unemployment, does tend powerfully in that direction. Low wages put too severe strain on the moral strength of the individual."

Now, just one word in closing. I said I wanted to give somebody else a chance. We should not hesitate to clothe our Legislature with this power. Gentlemen, will any man around this circle think for a moment that this is going to be abused, or even unwisely used? Remember what happens, happens after very careful consideration, very careful deliberation. Just as sure as we are to leave this hall to-night, so sure is this thing coming in this State, and before you leave here, look into your conscience and consult your conscience and see if you are not passing by an opportunity to help it; see if you can excuse yourself at some future time, when its necessity may be much more apparent, upon the ground that you are afraid to trust this great question to the elected representatives of the people in the Senate and Assembly.

CHAPTER XXXIII

For the Widow and the Orphan

That the home is the normal environment of the child has always been a truth confirmed by human nature. But that the care of an orphaned child is best fostered by mother love in a home is an application of this truth in a policy which could not be established in New York State without a struggle against the powerful interests of institutional charity which had much at stake.

For a number of years a small group of women in New York City complained that the relief given by charitable organizations to the widow and the orphan was inadequate. They characterized the easy recourse taken by relief agencies to separate a widow from her orphan children as inhuman and often motivated by a desire to reduce the cost of relief through a wholesale treatment of orphans in asylums.

They condemned the system not only because it provided insufficient relief but chiefly because it was wrong to separate a child from its worthy mother and confine it in the artificial atmosphere of an institution. They argued that the best institution could not compete in effectiveness and results with a normal home where the child received the fostering nurture of mother love. They were therefore led to the advocacy of what was then a revolutionary policy. They urged that the child should be kept with its mother and that the State should regard the mother (if not disqualified by character or other reasons) as its agent. The State must

subsidize her instead of continuing the time-worn policy of subsidizing an institution.

These women took the fight to the Legislature in 1913. It appointed a commission to inquire into the subject of child welfare and of relief for widowed mothers. The commission after a careful study of conditions in the United States and Europe recommended the policy of Child Welfare Boards. A law known as the Hill-McCue Bill, providing for the pensioning of widowed mothers through these boards, was introduced in the Legislature of 1915.

No bill in that Legislature aroused more interest. The battle line was drawn through the entire State. Arrayed against the advocates of the bill were the mighty organized charities—powerful institutions which had been the recipients of public bounties and private philanthropy. No lobby was more active and insidious. Unlike the ordinary lobbies it wrapped itself in the mantel of virtue. It condemned the measure as reactionary and disastrous. The representatives of these institutions predicted dire calamity for children if the law was passed. They claimed that it would revive all the old evils of outdoor relief with its waste and political maladministration.

The pressure upon the Legislature by the enemies of the bill was unusual. No device of the lobbyist was neglected to defeat the measure. The atmosphere of the Assembly was tense. Passions were aroused on both sides. Among those who fought for the right of the orphan child to the fostering care of its mother was Smith, then minority leader of the Assembly. On March 24, upon the occasion of its third reading, moved by deepest feeling, he delivered a speech urging its passage. At its close the Assembly was silent for a moment and then, the account says, "burst into cheers."

Mr. Speaker, in the recent campaign and in the campaign previous there was contained in the platforms of the two great parties a plank which pledged the parties to the conservation

of our natural resources. As I see this bill and as I view the policy on the part of the State in reference to such matters, I am of the opinion that this bill should read, "An act to conserve the family life of the State."

What happens when death takes from the family the provider? The widow mother goes to the police court or to the charity organization and her children are committed to an institution, and from the moment the judge signs the commitment the people of the city of New York are bound for their support. Let us see what effect that has upon the State itself. The mother stands in the police court. She witnesses the separation of herself and her children. They are torn away from her and given over to the custody of an institution, and nothing is left for her to do but to go out into the world and make her own living. What must be her feelings? What must be her idea of the State's policy when she sees these children separated from her by due process of law, particularly, when she must remember that for every one of them she went down into the valley of death that a new pair of eyes might look out upon the world? What can be the feelings in the hearts of the children themselves separated from their mother by what they must learn in after years was due process of law, when they must in after years learn to know what was the State's policy with respect to their unfortunate condition?

That is the old system. That is the dark day we are walking away from. That is the period that, by this policy, we are attempting to forget.

What new policy does this bill inaugurate? What new system does this bill inaugurate? The State of New York, under the provisions of this act, reaches out its strong arm to that widow and her children and says to them, "We recognize in you a resource to the State and we propose to take care of you, not as a matter of charity, but as a matter of government and public duty." What a different feeling that must put into the hearts of the mother and the children! What better citizens that policy must make! Why? Because it instills into that young heart a love, a reverence and a devotion for the great State of New York and its sovereign power.

We are pledged to conserve the natural resources of the State. Millions of dollars of the taxpayers' money, untold and uncounted millions have been poured into that channel. We have been in a great hurry to legislate for the interests. We have been in a great hurry to conserve that which means to the State dollars and cents. We have been slow to legislate along the direction that means thanksgiving to the poorest man recorded in history—He who was born in the stable at Bethlehem.

We have been especially blessed by divine Providence in this State. He has seen fit to make it the great financial and the great commercial centre of the western world. I believe it will in time be demonstrated that He intends to make it the market place of all the world; and by this legislation, by the adoption of this policy, we are sending up to Him a prayer of thanksgiving for the innumerable blessings that He has showered upon us, particularly in the light of the words of the Saviour Himself, who said: "Suffer little children to come unto me, and forbid them not, for of such is the kingdom of heaven."

The principle established by this bill is now accepted by the best child-caring authorities.

As Governor, Smith was ever alert to protect the Child Welfare Boards. He proved the friend of the widow and orphan on many future occasions. He was instrumental in liberalizing and improving the State's provisions, until to-day New York is far in advance in methods and extent of the application of this policy.

CHAPTER XXXIV

The Housing Crisis

Shortage of houses with consequent rise in rent was the most important war problem pressing upon the people for solution. It was not local or even national in extent but international. European governments and the Dominion of Canada were confronted with the same economic and social problems arising from the housing shortage and accumulated difficulties due to the concentration of the world's productive energies upon the industries essential for winning the war.

New York State and especially its cities needed housing relief. The Legislature recognized it by appointing a Joint Committee for its consideration. The city of New York appointed a Committee on Rent Profiteering to protect the tenants against the exorbitant sums exacted by landlords who took advantage of the shortage.

Legislative relief had to be given to meet the emergency arising from so abnormal a condition. Such minor measures as could afford temporary relief to harassed tenants were passed in the extraordinary session of June, 1919. But most needed of all was the building of more houses.

The Reconstruction Commission went to work on the solution of this problem with sanity and thoroughness. It established an advisory body consisting of architects, builders and real estate experts with representatives of the public. They

worked arduously to stimulate building. Conferences with representatives of loaning institutions and insurance companies were held to influence the flow of money into the building of homes. But the money market is governed by economic laws. It did not pay these agencies to invest their funds in buildings. The costs of labor and of materials were so high that the returns from financing housing enterprises for industrial workers at prevailing rentals were not as attractive as other building operations.

The Governor tried hard to stimulate home-building by private effort and on May 16, 1919, at a conference with the Reconstruction Commission he recognized that legislation might have to be resorted to in meeting emergencies and in preventing abuses. The only real solution was more houses.

Smith reminded them of what some seemed to have overlooked. When he assumed office that very year he was confronted with the fact that for two years at least all building in the State was absolutely at a standstill. That situation, of course, was caused by the fact that the federal government itself had expressed the desire to the State and to its various municipalities that no construction work that took men and materials away from the purposes of the government be carried on.

In transmitting the report of the Reconstruction Commission on Housing to the Legislature at the next regular session in 1920 the Governor in a message under date of March 26, 1920, fully analyzed the problem, and the attempts made partly to meet the emergency at the extraordinary session of the preceding summer. He then set forth the need of a constructive policy as recommended by the Commission.

The Legislature passed measures of temporary relief but paid no attention to a permanent constructive policy. This he urged again in a message to the Legislature called in extraordinary session on account of the unrest and distress-

ing conditions arising from the housing shortage which had become acute and required immediate attention. In his message of September 20, 1920, he laid out a comprehensive policy covering the emergency and the permanent solution.

The history of his efforts to solve the housing problem was ably given in an address to the conference of governors in Harrisburg, Pennsylvania, on December 2, 1920. The Governor could not attend in person. The speech was read by the Honorable Edward F. Boyle, appointed by him as chairman of the Industrial Commission.

Symptomatic of the fundamental housing problem, and so marked as at last to have attracted the attention of the whole world, is the excessive rental cost of housing in centers of population, which has been driven to the point of profiteering. In approaching the problem it is easiest to believe that a cure of profiteering in rentals will bring about readjustment of the housing problem, and that, therefore, homes will immediately be found for everybody and at rentals which they can afford to pay. This is such a common error that it is not at all extraordinary that in the early stages even the Federal government approached the question from this angle by attempting to enact rent laws in the District of Columbia, expecting that these would put a sufficient number of housing accommodations in Washington at the disposal of a greatly increased population.

The situation in New York City is of vital interest to the whole country because what is happening and what has happened in the metropolis on a large scale is taking place in a lesser degree, and more slowly, in every city or town throughout the country. Nowhere is private initiative filling the demand for houses. In New York, because of the scale of the problem, it is easier than elsewhere to measure the inadequacy of the effort to meet the present situation by our former method of supplying homes. It is apparent and will become more and more apparent in the other cities of the country that government action alone can prevent serious trouble.

At the beginning of my term of office it was apparent to me that housing would claim a great part of the attention of the public. The shortage due to lack of building during the war was just becoming manifest and was evidenced by the increase of rentals. Immediately upon assuming office, I appointed a Reconstruction Commission, composed of men and women who were experts in their various lines, and to them I entrusted the study of the general policies of readjustment and reorganization that I believed were necessary to guide the State during the period of reconstruction. I charged them especially with making a careful study of the housing conditions of the State. I asked them to make every endeavor to secure the fullest information, and after carefully studying it to recommend either legislative or executive action. I stated that I was particularly anxious that the Commission "find a solution of our housing difficulties that looks to the future and that a program may be initiated that will make for the permanent welfare of the State."

Housing being a social problem, whose pressure is felt by rich and poor alike, there proved to be great readiness to seek remedies, and after the Reconstruction Commission had appointed a Housing Committee and they were well on their way in the study of the existing conditions, the Legislature, feeling the pressure, appointed a Joint Legislative Committee on Housing, which also was charged with the duty of studying high rentals and housing conditions.

The Committee on Housing of the Reconstruction Commission immediately associated with itself two advisory committees, one for New York City and one to consider upstate problems. The members of these advisory committees were chosen from the various fields of activity having to do with the creation of housing facilities. They were chosen because they represented finance, building, architecture, city planning, tax experts, building loan associations, social organizations and others having a community interest in the problem.

Thoroughly organized with these advisory committees, the Commission undertook an immediate examination of all phases of the situation. They made a study of land values in relation to housing, co-operative housing, municipal housing enterprises, taxes and assessments, money (which they considered from the point of view of its source of supply), building and loan associa-

tions and other types of loaning institutions, city planning, costs of construction, large scale planning, building loans, and the effect of restrictive legislation and management.

The Committee made a thorough survey of existing conditions; questionnaires were sent out to cities and towns throughout the State. In New York City where conditions were most acute, a detailed house-to-house survey was made of thirty square blocks containing a population of about 50,000 persons. This block survey was intended to compare rental increases with actual living conditions, and also to determine whether the worst type of building construction was capable of salvaging, since new construction was most costly. This survey necessarily dealt also with the social implications of housing.

During the summer of 1919 it was necessary for me to call a special session of the Legislature in order to ratify the suffrage amendment, and since no action looking toward a remedy for the housing situation had been taken at the regular session of the Legislature in that year, and it being apparent that the crux of the situation lay in the acute shortage of houses, a group of those interested in the solution of the question suggested the enactment of four statutes that were presumably capable of immediately remedying the housing situation as it existed at that time. The first of these liberalized the Savings Bank Law and empowered savings banks to loan money on buildings in the course of construction. The second and third related to proceedings against tenants, who were holding over beyond the period of termination. The fourth made a change in the Tenement House Law and approved the alteration of a certain class of houses. We were assured that this would make possible accommodations for 20,000 families. This particular change in the laws brought no relief, as no operations were undertaken under its provisions.

In the meanwhile the housing shortage which was most acute in the largest centres of population began to spread to the smaller cities of the State and attempts were made by some of the communities to solve them by means of the organization of housing corporations made up of the business men and manufacturers in the town, either for the purpose of making loans to workers desiring to build houses or for the purpose of constructing groups of houses to be sold to workers.

At the suggestion of the Reconstruction Commission, the Joint Legislative Committee devoted some time and study to the consideration of the effect of the high costs of building materials on construction and the reasons for these high costs.

In March, 1920, the Reconstruction Commission filed its report on housing with me.

In the meantime the Joint Legislative Committee on Housing had conducted its examination along the lines of increased rentals, and their recommendations for legislation confined themselves to applying remedies to these conditions. They acted on the assumption that an emergency existed and applied their legislative remedies with that idea in mind.

The Reconstruction Commission had pointed out in its report, and by this time it had become apparent to all that legislation does not build houses and that the fundamental cause of the whole difficulty was that there were not enough houses for the population. Figures showed that there were actually less houses in New York than in the year previous, although a larger number of tenements that had hitherto been unused because of wretched conditions were put to use, and although the population continued to increase in normal ratio. The Reconstruction Commission viewed the remedies for the situation entirely from the angle of creating a permanent housing policy for the State, but the Reconstruction Commission also called attention to the fact that without fundamental changes in our methods of supplying houses it would be impossible to secure a sufficient supply of homes for the workers of the State. They stated in their report—"It is economically unprofitable now, it has been economically impossible for many years, to provide a large part of the population of this State with decent homes according to American standards of living. Decent homes and wholesome environments in which to bring up children cost more than most workers can afford. It is impossible to supply the population of this State with decent homes, unless the cost of living be reduced."

As a result of their study, a majority of the members of the Commission made the following recommendations:

1. That a law be enacted requiring the appointment of local

housing boards in communities having a population over 10,000, the members of such boards preferably to serve without pay, and for the appointment of a central State housing agency for co-ordinating local effort. The function of the central and local boards shall be—

Aiding each locality in meeting the immediate pressing need for sufficient homes.

Collection and distribution of information relating to housing and community planning.

Assisting in the preparation of housing laws, zoning ordinances, State-wide regulatory or restrictive housing and building codes, etc.

Study of the means of lowering the cost of housing through better planning in the construction of homes and through their proper location.

Development of a means for using State credits to apply to housing at low rates of interest without loss to the State. To set the standards for the use of such credits and to fix limitations upon the return of money borrowed from the State for housing purposes. To assist in the most practical manner possible in the erection of adequate homes in wholesome environments for workers at a rental cost dependent on the actual cost of land and building.

2. The enactment of a constitutional amendment permitting extension of State credit on a large scale and at low rates to aid in the construction of moderate-priced homes. This does not mean that the State itself shall build such homes. It does not mean that the State is to own or operate houses. It does not mean that the State is to offer subsidy for the construction of homes. It *does* mean that the State shall be enabled to loan money on its credits to limited dividend corporations or to individuals or to organizations, to build houses of such standards as to light and air as the State or community may determine to be desirable, the rentals of such houses to be controlled.

There are many methods by which State credit might be made available. It should be one of the first duties of the Housing Bureau and the local boards to make a thorough study of this matter.

3. Passage of an enabling act permitting cities to acquire and hold, or let adjoining vacant lands, and if necessary to carry on housing. This legislation should be such as to permit conservation of the increment of land values for the benefit of the community creating it.

The Legislature passed none of these constructive recommendations, gave them no study whatever and permitted the situation to go on, developing an even more acute crisis. The Joint Legislative Committee was continued, and both that committee and the Reconstruction Commission made further studies of the situation.

May first and October first are the two great periods in the year in New York when leases terminate. The May first period was partially tided over by the legislation passed at the 1920 session of the Legislature on recommendation of the Joint Legislative Committee, but it was soon apparent that this was utterly insufficient to meet the crisis of the principal moving day, which was October first, and there were pending in the municipal courts of New York City over 100,000 dispossess cases that would have to be argued on or about that date.

To meet this threatened emergency, I called the Legislature in extraordinary session on September 20, 1920, and in my message to the Legislature at that time I stated that the experience of several months had revealed to us the weaknesses of the temporary expedients, and had made more acute the neces sity for encouragement of building operations so far as it could be done by law, and made more apparent the necessity for the creation of State agencies for further use, and I therefore asked the Legislature to deal with three phases of the subject: First, the strengthening of the temporary statutes enacted at the regular session to meet the emergency. Second, to attempt to stimulate building construction. Third, to establish at once agencies in the State that would provide a permanent and constantly developing housing policy.

I had in mind the distinct belief that no restrictive legislation, properly drafted, would have any disastrous effect on honest landlords. It has been my experience that only those who seek to live outside the moral law have any great fear of legislation. A State has a conscience and will regulate fairly.

In our State landlords have been given the special privilege of summary proceedings in order to regain immediate possession of their premises. This privilege does not belong to any landlord as a matter of inherent right. Inasmuch as the evidence laid before us indicated that summary proceedings were being grievously abused, in a crisis of this kind, the State does only its duty when it withdraws or modifies them.

There was an abundance of evidence that undesirability or failure to pay rent was not in the majority of instances the basis of the application for the writ of summary removal, but on the other hand, it was the operation of the profiteer who would remove the desirable and paying tenant in order to create a vacancy which might thereafter be offered to the highest bidder. As a result of this, families have been shifted from place to place without rhyme or reason, and the unscrupulous and selfish have profited immensely by it. October first was to have been the height of the harvest.

I believed the emergency to be such that I recommended that the strong arm of the State should reach through its courts and protect the people at least until the crisis should have passed or the situation be relieved. I suggested that the courts be empowered where it is evident that the dispossess is requested for the purpose of unreasonable rent-raising, to suspend the dispossess remedy for an adequate period.

For the stimulation of building construction, I suggested the amendment of our taxation laws. While I do not, as a matter of policy, favor tax exemptions, the emergency was such that it appeared to be advisable to consider the enactment of a law exempting from taxation for a period of years, with proper restrictions, buildings used for dwelling purposes whose construction would be undertaken within such a period as would assure an immediate increase in housing accommodations. I believed that this would aid in putting new construction on a fair competitive basis with buildings erected before the war and would assist in creating a market for new buildings.

Loaning institutions apparently have not kept in step with the times and have spent their energy in securing investments bringing a larger return than real estate mortgages. For in-

stance, our savings banks and mutual insurance companies are organized not for profit, but as depositaries for the people's money, and it would be entirely in keeping with their purpose if their funds were made available to a greater extent to meet the people's needs by investing a larger portion of them in bond and mortgage.

In 1914 there was created by statute a State Land Bank having for its purpose assistance to building and loan associations. Inasmuch as the proceeds from the sale of the bonds of the Land Bank are used for the building of homes, it seemed advisable that the State should do everything possible to make the bonds a more desirable purchase. We had already exempted them from the provisions of the State income tax, but the abnormal yield from other securities is such as to make them an undesirable investment. I suggested that it might be well that the State use its moneys or a portion thereof now in the various sinking funds of the State to purchase these bonds, and that it might also enable municipalities of the State to invest in such bonds.

These recommendations were made in the hope that the legislation which they suggested would bring voluntary capital into the building market. I called the attention of the Legislature to the fact that if the present condition were not thus relieved and the health of the community continued to be menaced, then we would have a grave public emergency to meet such as would confront us in a time of epidemic or of catastrophe. I suggested that the police power of the State, clothed with the proper safeguards, should be extended to municipalities in order that they might be enabled to build or lend their credit to the building of houses.

I stated that undoubtedly the State, as well as the municipalities, should be in a position to extend its credit either through the medium of the State Land Bank or a specially created agency.

Again I called the attention of the Legislature to the fact that it had been brought to my attention that the high cost of building materials was artificially stimulated, and I suggested that the Joint Legislative Committee be given increased powers to carry on further investigation of this situation.

In urging a housing policy for the State I called the attention

of the Legislature again to the fact that building houses for some groups in the population has become an unprofitable business. Hence, these groups have for a generation lived in the left-over housing, or in the cheapest and most poorly planned type of home that a grudging and unrealizing community would provide. As a result of the present emergency, a still larger portion of our population is being forced back into houses of a standard below that which we have accepted as decent American homes.

I pointed out to the Legislature that except for the report of the Reconstruction Commission and the findings of the Joint Legislative Committee, we have been aided by no State agency in the consideration of this very important problem. In the enactment of labor laws we are guided by the Industrial Commission. In the enactment of health measures, by the State Health Departments. In matters affecting the conservation of our natural resources, by the Conservation Commission. The Banking Department, the Insurance Department, and other State agencies all deal with special subjects that need executive or legislative action. But in housing, dealing with the elementary need of shelter and establishing homes, there is no State or local agency to aid the legislative and executive branches of the government either in meeting an emergency, or what is more important, in helping to establish a permanent housing policy for the State. Such a policy does not necessarily mean the building of houses by the State, but it does mean the establishment of housing standards and of local development that should underlie any future growth of the cities of a State.

To this end I recommended for New York State a law which will create in each community having a population of over ten thousand a local housing board, which shall be charged with the duty of finding a solution for the local housing situation. These local boards should be required to prepare within a period to be determined by the local authorities a plan for the future development of the city and should consider local housing ordinances. A State agency should be created and the local boards should be required to report to it at stated intervals so that there may be available at all times a body of information applicable to this subject.

The State agency, on the other hand, should first of all be directed to report to the next Legislature on a method for the development of a system of State credits for housing purposes. Through the State agency information should be made available to local communities that should aid them in their housing program.

Even at the extraordinary session, the Legislature enacted only emergency relief measures. In acting on my recommendations that something be done to stimulate building construction, a permissive statute was passed, allowing local communities to exempt from taxation new construction. The net result of this has been that only one community—New York City—has made any attempt to pass a tax exemption ordinance and although two months have passed since the legislation was enacted, no act is as yet on the statute books, and new construction is as far as ever from being undertaken.

The Joint Legislative Committee with its increased powers has gone forward with its investigation of the high cost of building materials and an examination of the unlawful conditions in the industry with the sensational results which are common knowledge to readers of the metropolitan dailies.

It seems, however, that proper housing is recognized as a social and health necessity by other countries. The Canadian Government is lending twenty-five million dollars to the provinces for the building of homes. In England, where housing has become a function of the Ministry of Health, not only is the government making colossal loans to local authorities and to public service corporations (limited dividend companies), but it is offering subsidies of as much as one-quarter the cost of houses to make up for the loss involved in building at a time of excessive costs—Britain knows that its welfare depends on having sufficient decent homes—and it means to have them no matter what they cost. England is not only planning new homes —it is planning new towns. France also is doing constructive work. Paris has bought a large tract of ground on the outskirts of the city on which is to be built a garden suburb. The policy of Australia that has been in operation for some years, of stimulating house building and ownership by loans on easy and long

terms, has been greatly extended to aid returning soldiers. And so we find in every civilized country the government has accepted its responsibility even in a greater degree than before the war of solving the most difficult problem that confronts its citizens, that of finding a home. In America our housing laws have been negative laws—restrictive laws. But in the light of the present emergency we see that the State here, as elsewhere, must offer a helping hand—must find a constructive solution if we are to have homes.

It is time that this country made adequate provision to meet the problem. I do not believe that federal legislation alone would meet the situation. The whole problem is too colossal to be solved by a single bureau at Washington. Our State governments are in a different position than the national government in meeting the housing problem. The political problem is lessened in degree. The number of geographical interests to be served are much smaller. But, above all, in State legislation there is the opportunity to try out various methods of building, aiding and financing housing. There are innumerable suggestions in the experiences of Canada, South America and Australia, as well as European countries. Some will fit the local conditions and habits of one part of the country and some another. American ingenuity will find new means of meeting this problem. The solution of the housing problem of a comparatively newly settled agricultural State will be different from that of New York with its great cities. Some States may use their insurance funds, other their farmers' banks, as sources for building loans. Ultimately all these experiments may be used by the National Government as the basis for the organization of a great central bureau. But that will be a problem of the distant future. In the same manner that the States have tried out woman suffrage, minimum wage, compensation and child-labor laws, so now they should undertake experimentation and careful study of their local housing conditions. We may have failures on the part of individual States through choice of means that do not meet the social conditions of the State. But how insignificant such failure would be and how easily remedied as compared to a failure on the part of a Federal housing administration.

It would be manifestly impossible to fill all the needs for housing everywhere. It does not seem to me that this is the time to create a national housing fund of any kind. It seems clear to me that the individual States should themselves work out systems of State credits for State purposes. Out of intelligent attempts to solve the question on this small scale, we can evolve a national housing policy.

With the control centered in each State, people will be in more direct and more democratic control of their housing funds and their application to local conditions. I am therefore not an advocate at this time of a Federal system of housing loans, although a central housing bureau for the co-ordination of all available material is desirable and even necessary, but this is something quite distinct from creating a national housing fund.

The Governor never relaxed his endeavors to enact his housing recommendations into law. In the first year of his second term the Legislature finally created the State Commission on Housing and Regional Planning. It was largely owing to its investigations, public hearings and its report proving the continued existence of a housing emergency, that the emergency rent laws were continued for two years and the Tax Exemption Law extended one year.

The Commission submitted a careful report proving that 60 per cent. of the urban population of the State cannot be supplied with adequate housing through the efforts of speculative builders and private loaning institutions. They cannot be attracted to this class of building by an adequate return on their money. The Commission, therefore, urged a constitutional amendment making the credit of the State or localities available if private financial sources fail.

The report was submitted to the Legislature by the Governor with his approval. The amendment to the constitution enabling the State or cities to use their credit to finance the building of homes was approved by a Democratic Senate and lost in a Republican Assembly.

CHAPTER XXXV

Home Rule

The first important constitutional debate in which Smith participated was occasioned early in the convention. The report of the Committee on the Legislature and its organization, amended the objectionable constitutional provision of 1894. This operates by limiting the representation of two counties adjoining the city of New York. The committee "remedied" the situation by providing a prohibition against a representation of more than one-half of the Legislature from five adjoining counties.

In 1894 the two adjoining counties were then the thickly populated counties of Manhattan and Kings, known as New York and Brooklyn. By 1915 the population had spread throughout the five counties of Greater New York. It was deemed necessary by the Republican majority to freeze into the State constitution a permanent minority representation from the City of New York and a normal control of the Legislature by the Republican party which drew its main support from the rural communities.

The debate on New York City representation challenged the fighting edge of the Democratic representatives from New York City. The new proposal created a still wider discrepancy between the basis of representation for New York City and that of the rural communities.

Smith opposed the theory of apportionment based upon territory and rested his argument upon the proposition that the unit of representation should be the individual and not

his place of residence. In this debate he sought to expose the political motive of the Republican majority with a refreshing candor.

Another proposed constitutional amendment over which there was much contention was the one granting home rule to cities. This had been submitted to the Convention sitting as Committee of the Whole by the Chairman of the Cities Committee, ex-Mayor Seth Low of New York City.

Mayor Low presented the majority report on the amendments. It became known as "General Order 50." This was a very scholarly presentation. It analyzed every section with lucidity and simplicity all the more noteworthy as the application of home rule through constitutional grant, or by the statute, presents serious technical and legal difficulties. Home rule is easier to realize as a campaign slogan than as a legislative or constitutional problem. Any solution of the home rule problem must take cognizance of the relation of the City to that greater sovereign, the State. How far the City is an agency of the State and how far it can act independently of it is a riddle that has taxed the subtlest legal minds.

The majority report granted some clear home rule powers to the cities. It provided checks by the State which met with aggressive opposition on the part of the Democratic minority. The latter, representing a party which made home rule one of its principal demands for decades, were naturally sensitive to what they regarded as unwarranted invasions by State authority upon the rights of local communities.

Without attempting to discuss the underlying conception of the home rule amendment as submitted by the majority (which was ably criticized by Senator James J. Foley and Judge Morgan J. O'Brien), two provisions of the majority report particularly roused the ire of Democrats like Senator Wagner and Alfred E. Smith.

One was the provision which required that after a city had taken action on a charter or a charter amendment such action must be laid before the legislature subject to its approval.

Mayor Low disclosed that this check was provided in the home rule granted to the Philippine Islands. The Democrats were quick to characterize it as Philippine Home Rule.

The other provision made it "necessary to submit to the Legislature every amendment of a charter and law which changes the framework of its government." The object of this provision as set forth by Mayor Low was to prevent "'ripper" legislation providing for patronage or other partisan ends, in the shape of ordinances reorganizing departments of a city. It was argued by the committee that freedom in these matters offered ordinary human nature in politics (whether of the Republican or Democratic brand) too great a temptation for partisan manipulation. It was a peril and required checking and restraining by the Legislature.

The Democratic minority was convinced that the adoption of the minority report by the convention was not possible. It resorted to the strategy of liberalizing the majority report by submitting a number of amendments to the sections as presented. No delegate was more active in deluging the convention with changes in phraseology designed to give the cities a greater measure of home rule than Smith.

He first insisted upon the right of the city to apportion its own aldermanic districts. The right was denied the city as it affected the framework of the government and must be referred to the Legislature.. He realized that such power when exercised by a legislature dominated by the Republican party would be used for political ends. He submitted amendments providing checks by the electorate of the city giving them opportunity within thirty days (if one per cent. of the voters protested against an amendment affecting

the framework of the city government) to vote on them at the next ensuing election.

When asked by Mr. Parsons whether that was the amendment requested by the Citizens' Union, Smith replied, "I believe that is either the Citizens' Union or the City Club. I don't know which it is. They all look alike to me. When they have a good idea I always like to line up behind it. I don't mind annexing them when they are right."

The debate waxed hot. Smith put some very embarrassing hypothetical questions to Mr. Low.

He flung amendment after amendment at the convention, only to have it rejected. Finally he said, "I desire to offer one final amendment. The good book says, 'While the light holds out to burn, the vilest sinner may return.' "

Consistent with his fundamental policy of home rule, his future career as Governor was to base itself to a large extent upon a steady interest in the principle of home rule for the cities of the State.

In his first term as Governor, he urged an amendment to the constitution to give the municipalities a broader measure of local self-government.

In 1922, the constitutional amendment passed the Legislature for the first time. In the first year of his second term as Governor in 1923, he urged its passage for the second time despite the fact that it did not give as complete a measure of home rule as he had always advocated. It represented a compromise. To him, the whole subject was closely interwoven with many other policies relating to administration, notably the regulation of public utilities.

He said in his 1923 message, " . . . Probably no political principle has received so much state-wide discussion as the question of a greater grant of power by the State to municipalities over such things as are wholly local. The cities of the State today and particularly New York City,

find themselves restricted by what is really a charter of limitation. The phenomenal growth of the cities brings up constantly for settlement new problems that the city should be left free to determine without interference by the State. . . . "

When the home rule amendment passed the Legislature in 1923 for the second time, the Governor urged that the State be prepared for prompt action to make it effective through the medium of the necessary statutory legislation. This would require amendment to a number of laws. He therefore suggested the appointment of a special commission to examine and propose the necessary changes. Such a commission was authorized by the Legislature. It began its work immediately with the result that at the 1924 session of the Legislature, an enabling act was at last passed giving the cities a considerable measure of home rule. This had the incidental advantage of freeing the Legislature to an appreciable extent from the consideration of matters of local interest only. These bills had, up to this time, consumed much of legislative time and raised many difficult issues in the Governor's office.

CHAPTER XXXVI

Sunday

The same Jeffersonian philosophy which dictated policies on home rule and law enforcement is evident in his memorandum which accompanies the signing of the Sunday baseball local option bill.

I realize that a very substantial portion of our people most conscientiously oppose permission to indulge in recreation or sports of any kind on Sunday. I respect them for their opinions and I believe that in those opinions they are entirely conscientious. On the other hand, I know that a great many who are advocating this measure and who believe in reasonable recreation on Sunday and who consider that it is that species of rest which comes from change of thought and change of activity are equally good citizens of the commonwealth, and their opinions are entitled to equal weight.

After a thorough consideration of the matter, I am of the firm opinion that those members of a community who oppose all recreation on Sunday, or at least recreation permitted by this amendatory bill, have no right, in law or in morals, where they constitute a minority of a community, to impose their views upon the majority, who disagree with them, and to prohibit the latter from exercising rights and privileges to which they deem themselves to be entitled, the exercise of which will in no wise interfere with the orderly and proper observance of the day of rest by those desiring to refrain from attending amusements.

On the other hand, this bill provides that where a majority of the community, as represented in its local legislative body,

is opposed to the playing of baseball on Sunday afternoon, such amusement is prohibited in such locality. If representative government is what we claim and believe it to be, the action of the local legislative body will properly reflect, in each instance, the wish of the majority of the citizens themselves.

The witnessing of a baseball game, either with or without the payment of an admission fee, is a most harmless diversion. It is in no sense deteriorating to the moral fibre of the witnesses. Well-to-do people can and do on Sunday pursue their amusements with entire impunity and under the protection of the laws. Our golf courses are crowded, our highways are thronged with automobilists, seeking on Sunday a change of scene and the beneficial effects resulting therefrom. The activities of a poor man along this line are necessarily restricted by the limit of his means. It comes, however, within the reasonable reach of many to enjoy a baseball game and to obtain the rest which comes from reaction by such an outdoor, health-giving amusement.

Some such form of relaxation on Sunday is almost imperative and certainly most beneficial in the cases of that great mass of our people who during the six week days are employed in confining occupations, having during those days no opportunity for recreation of any sort. I cannot think that if the sentiment of the majority of any community, as represented by its duly elected officials, is in favor of permitting, under such restrictions and regulations as they may see fit to impose, the enjoyment of this very harmless amusement on Sunday, the rights of the minority are in anywise invaded.

I believe that before any class of our citizens should be given the right to impose their views upon this question, on which people so widely and conscientiously differ, upon those who disagree with them, they should, at least, represent the sentiment of the majority in their respective communities.

For myself, respecting most highly the opinions of those who disagree with me, I believe that the witnessing of an innocent amusement on Sunday afternoon, conducted in such manner as not to interfere with the comfort of those who are

opposed to such amusement, cannot be harmful. In this belief, I propose to let the communities of this State have the right to decide this question for themselves, and determine whether baseball games may be played on Sunday afternoons, and, if so, whether an admission fee should be charged.

CHAPTER XXXVII

The Issue of Law Enforcement

The rule of the majority has been the cornerstone of Smith's political faith. In the Legislature and in the Constitutional Convention he fought with all his force and vigor to apply that principle to legislation and to the framing of the new constitution itself.

Against any deviation from that rule, he set his face like flint. Where legislation dealt with debatable restriction of the personal habits of the people, he either opposed it or he left it to the people themselves to decide.

Therefore, we find him approving the principle of local option for Sunday baseball or Sunday movies. Therefore, his keen resentment over the methods employed by the Anti-Saloon League to put over the Prohibtion Amendment in the State of New York.

The record of the League in clubbing legislators and even governors into submission by threat of political death even when they were not elected on the issue involved, roused Smith's indignation. Such action violated the cardinal principle of his democratic faith. He gave vent to his criticism with caustic irony in public speeches. He pictured weak legislators wet in practice, clubbed behind the closed doors of a party caucus, voting against their personal convictions at the bidding of a lobby because the party considered it expedient at the time.

Smith consistently advocated the referendum to the people

as the only truly democratic method of determining a policy affecting their personal habits.

In his first message to the Legislature (referring to the pending amendment to the federal constitution providing for national prohibition) he said, "I believe it is our duty to ascertain the will of the people directly upon this subject. I believe we should consult them, and to that end I recommend to your honorable body that legislation be enacted submitting the question to popular referendum in order that its determination might represent the expression of the will of the majority."

But the whip of King Caucus was snapped over the heads of wet Republicans. They ratified the amendment in the legislature by a very narrow margin.

This elicited some direct reflections from Smith:

I am advised that there were members of the Legislature whose personal sentiments and convictions were opposed to ratifying the Eighteenth Amendment to the Constitution, sufficient in number to have prevented the passage by the Legislature of the resolution for ratification, if it had not been for the action of the party caucus.

In view of all these circumstances, and in order that the true opinion and position of the State of New York in regard to the Eighteenth Amendment be ascertained and carried out, and made known to the people of other states, I recommend that the Legislature rescind its prior ratification of the said amendment, and submit the question to the qualified electors of the State, at the general election of the year 1920.

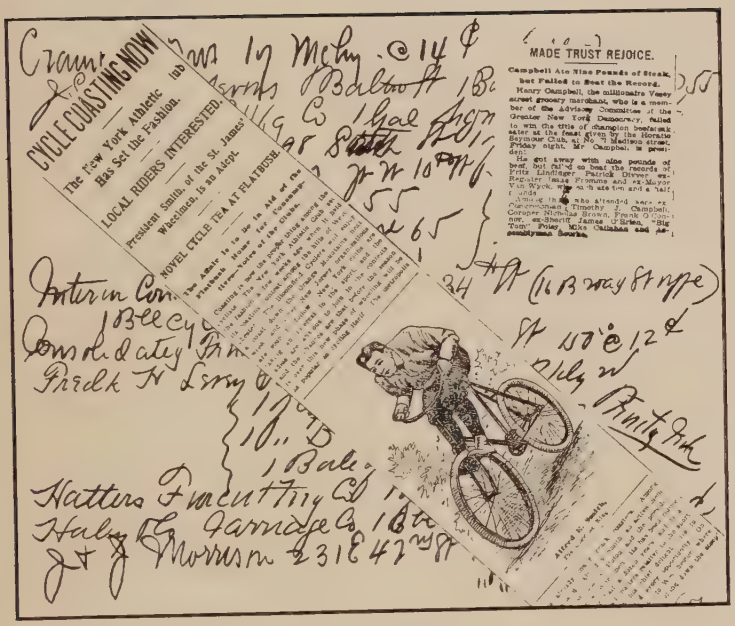
I am unable to understand what reasonable argument can be made against submitting to the people any question that interferes with their personal liberty. The man who opposes the submission of that kind of a question assumes the rule of the dictator and sets himself up as being unwilling to abide by the will of the majority. He cannot be said to have much faith in democratic government.

Once more the Governor argued not against the prohibition amendment but against the undemocratic method by which it was brought about. This method, however, having been declared constitutional by the United States Supreme Court and the Volstead Act enforcing it having been enacted by Congress as the law of the land, many states proceeded to apply the "concurrent enforcement" provision of the amendment by passing in the main State laws similar to the Volstead Act. Such a law, known as the Mullan-Gage Law, was passed in the administration of Governor Miller and approved by him.

During the 1922 campaign, the Democratic platform contained a plank favoring a memorial to congress suggesting a modification of the Volstead Act in accordance with the restriction imposed in the enforcement act passed by the New York Legislature in 1920. A definition of alcoholic content therein as 2.75% had been declared by the Supreme Court at Washington to be unconstitutional.

The methods sanctioned by the Mullan-Gage Law for the enforcement of the Volstead Act were resented by the people of the State. Grand juries protested against it. The abuse of powers granted by the police authorities were violative of age-long Anglo-Saxon safeguards against search and seizure, and double jeopardy. Arrests without warrant, and other evidences of police oppression, created a spirit of revolt among the people from one end of the State to the other. They looked upon the Mullan-Gage Law as an invasion upon their personal liberty. While the Democratic platform contained no declaration against it, the people voted overwhelmingly for the entire ticket in part as a protest against this law.

The memorial to Congress was passed by the 1923 Legislature. The Republican Assembly leaders, contrary to precedent, provided that the Governor also sign the memorial


CYCLE COASTING NOW!
The New York Athletic Club Has Set the Fashion.
LOCAL RIDERS INTERESTED.
President Smith, of the St. James Wheelmen, is an Adept.
NOVEL CYCLE FEAT AT FLATBUSH.
MADE TRUST REJOICE.
Campbell Ate Nine Pounds of Steak, but Failed to Beat the Record.

ALFRED E. SMITH
The Coasting King

(A Page from the Wells-Fargo Receipt-Scrap Book)

of a co-ordinate branch of the State Government. This he willingly did as it carried out one of his platform pledges.

Among the letters he received from Congressmen and Senators in response to the memorial was one from Senator Fess. It reflected the point of view of those who, like the Senator, favor theoretical total abstinence instead of genuine temperance. Governor Smith lost no time in retorting, in the form of a message taking into consideration every possible point.

But the memorial reflecting as it did the overwhelming public sentiment for a modification of the Volstead Act, did not meet the grievance of the people against the abuses of the Mullan-Gage State Enforcement Law. Assemblymen and Senators were deluged with telegrams and letters and met irate delegations demanding its repeal. So strong was the mass revolt against this measure that the Democratic leaders of the Senate and the Republican leaders of the House had to permit a vote upon it. It was repealed in the Legislature.

The repeal of the Mullan-Gage Law attracted the attention of the entire country. Newspapers in every State of the Union carried accounts of the Albany action. What will the Governor do? became a question which was discussed in every city and hamlet of the Nation.

When even the sporting fraternity take cognizance of a legislative situation by making bets on the probably favorable or unfavorable action of a Governor on a measure before him it is indicative that the interest is widespread and intense.

Smith faced many a critical situation in his public career, and he met this one with a serious openmindedness and a common sense which impressed the people throughout the country.

He was receptive to all sincere argument but he rebuffed any advice which referred to the political consequences of his act. Whatever his decision was going to be, both his

friends and his opponents were convinced that it would be based upon his own convictions, on the merits or demerits of the measure regardless of its effects upon his political future.

On June 1 he issued his historic memorandum approving the repeal:

STATE OF NEW YORK—EXECUTIVE CHAMBER

ALBANY, JUNE 1, 1923.

Memorandum filed with Assembly Bill, Introductory No. 1614, Printed No. 1817, entitled

> "An act to repeal Article 113 of the Penal Law and Section 11-b, chapter five of title two and section 802-b of the code of criminal procedure, relating to the manufacture and sale of alcoholic liquors."

Approved:

The bill under consideration proposes to repeal Article 113 of the Penal Law which enacted into the statute laws of the State substantially the provisions of the Volstead Act.

Because of the far reaching interest in this bill displayed by all classes of our people, I have given nearly one month of solid and careful thought to its final disposition. I deem it wise to go into some detail in order to clear up misunderstanding on the part of a great many of the people who have written or spoken to me about it, and to make clear the reasons for the action I am taking.

It is furthest from my thoughts to question the motives of the men and women of integrity throughout the State, who with an eye single to the right and the just, have arrayed themselves on different sides of the question presented. Some seem to think that my approval will mean the preservation of American institutions. Many others impelled by equally patriotic motives seem to feel that my approval will be destructive of American government. Obviously, both cannot be right, and I have therefore given careful study to the question involved and the arguments submitted in order that my final

disposition of it may be in full and complete accord with what my conscience dictates.

A brief review at this time of the entire question at issue so far as the State of New York is concerned would be helpful. The Eighteenth Amendment to the Federal Constitution was ratified by the Legislature of this State at the session of 1919. In 1920 the same Senate and an Assembly presided over and directed by the same leaders enacted the so-called 2.75 per cent beer and wine bill. This bill I approved. It was afterwards held unconstitutional and the United States Supreme Court declared in rendering its decision that the word "concurrent" in the Eighteenth Amendment referred only to concurrence in legislation which Congress passed to execute the provisions of the Eighteenth Amendment and did not permit the states to adopt a definition of an intoxicating beverage inconsistent with the definition contained in the federal law. In short, the State is therefore limited in defining an intoxicating beverage to one containing not more than one-half of one per cent of alcohol.

In 1922 the Democratic State Convention inserted in its platform a plank favoring an amendment to the Volstead Act which would permit the states under certain restrictions and after popular referendum to permit traffic in light wines and beer not regarded as intoxicating beverages. That platform and the candidates who ran upon it received the overwhelming support of the people of this State at the last election. I cite all this merely as indicating by history the attitude of a majority of the people of this State toward this whole question. Nevertheless, it is a fact that the Eighteenth Amendment is the law of the land and no one suggests, least of all the Legislature of this State or myself, that it should be violated.

In 1921 there was enacted in this State what has come to be known as the Mullan-Gage Law. It put into the penal statutes substantially all of the provisions of the Volstead Act but accompanied them by even more rigorous provisions as to search and seizure.

I make no criticism of this action on the part of the Legislature, but I am entirely unwilling to admit the contention that there was put upon the State either by the Eighteenth Amend-

ment, the Volstead Act, or the United States Supreme Court decision, any obligation to pass any law adopting into the State law the provisions of the Volstead Act. Learned jurists who have given the best years of their lives to judicial service in this State have so advised me. Leading members of the bar of other states concur fully in this belief. Advising the electorate of the State of Massachusetts, every living former Attorney-General of that Commonwealth as well as many of her distinguished lawyers, said:

> "The Eighteenth Amendment gives Congress and to each of the forty-eight states the concurrent right to enforce the amendment. This is not a command but an option. It does not create a duty."

I have read thousands of letters and I have listened to the fullest discussion and no one has pointed out to me any provision of the Constitution or of the statutes or any decision of the United States Supreme Court which imposes upon our State any constitutional duty to maintain a State enforcement act, and I am satisfied that as a matter of law this contention does not admit of doubt.

I am dealing with three classes of people, the radical drys, the radical wets and those who hold moderate views on this subject. The drys seem to see a moral duty on the part of the State to maintain an enforcement act. They are undoubtedly led to this conclusion by their own frame of mind because they do not suggest that the State maintain an act merely enforcing the Eighteenth Amendment in accordance with the wishes of the majority of the people of the State, but they insist that there be a State enforcement act exactly paralleling the Volstead Act.

Congress made its determination as to what constituted an intoxicant. This State decidedly disagreed with that determination. After all is said and done, whatever may be the interpretation of the Eighteenth Amendment by any class or group of our citizens, under our form of government we look to the courts for the interpretation which we must all follow. While legislative bodies make the laws, the courts must construe them and we are bound by the construction put upon them by

our judicial tribunals. The United States Supreme Court said:

> "The power confided to Congress by the Eighteenth Amendment is in no wise dependent upon or affected by action or inaction on the part of the several states or any of them."

If the right of Congress is paramount, its responsibility must be paramount.

Expanding this idea, the statement signed by the Attorneys-General of Massachusetts adds:

> "Nullification, as defined by the highest authority, is the action of a state intended to abrogate within its limits the operation of a federal law."

This no one proposes to do. The mere omission to maintain a State statute in no way abrogates a federal statute. It seems to me that this effectually disposes of the loose talk about the nullification of the Constitution by refusal on the part of any of the states to enact separate statutes.

Inasmuch as it would be physically impossible for me to make answer to all of the communications received by me from citizens of our own State as well as from other states who have sought to guide and advise me in this matter, I would like as a mark of my appreciation of their efforts to deal here with the considerations urged by them as well as with considerations urged in the oral arguments made at the hearing.

Let me first say what the repeal of the Mullan-Gage Law will not do.

Its repeal will not make legal a single act which was illegal during the period of the existence of the statute.

Many communications I have received and arguments that have been made to me, indicate a belief that its repeal will make possible the manufacture, sale and distribution of light wines and beer. So far as that is concerned it will still be under the control it is to-day, subject to the provisions of the Volstead Act. Repeal of the Mullan-Gage Law will not bring back light wines and beer.

The Supreme Court of the United States said:

> "The constitution, laws and treaties of the United States

are as much the part of the law of every state as its own local laws and constitution."

That means that after repeal there will still rest upon the peace officers of this State the sacred responsibility of sustaining the Volstead Act with as much force and as much vigor as they would enforce any State law or local ordinance, and I shall expect the discharge of that duty in the fullest measure by every peace officer in the State. The only difference after repeal is that to-day the police officer may take the offender for prosecution to the State court, to the federal court or to both. After the repeal of the Mullan-Gage Law the prosecution must be where it belongs—in the federal court. In law and in fact there is no more lawlessness in repealing the Mullan-Gage Law than there is in the failure of the State to pass statutes making it a State crime to violate any other federal penal statute.

Let it be understood at once and for all that this repeal does not in the slightest degree lessen the obligation of peace officers of the State to enforce in its strictest letter the Volstead Act, and warning to that effect is herein contained as coming from the Chief Executive of the State of New York.

At this point, with all the earnestness that I am able to bring to my command, let me assure the thousands of people who wrote to me on this subject, and the citizens of the State generally, that the repeal of the Mullan-Gage Law will not and cannot by any possible stretch of the imagination bring back into existence the saloon which is and ought to be a defunct institution in this country, and any attempt at its re-establishment by a misconstruction of the Executive attitude on this bill will be forcefully and vigorously suppressed.

Let me now say what the repeal of the Mullan-Gage Law will do.

Its repeal will do away entirely with the possibility of double jeopardy for violation of the laws enforcing the Eighteenth Amendment. By that we mean that no citizen shall be twice punished for the one offense. Under the United States Supreme Court decision in the Lanza Case, a citizen is to-day subjected to double trial and even to double punishment for

a single offense because such alleged offense is a violation of both the State and the federal law. This is an unwarranted and indefensible exception to the fundamental constitutional guarantee contained in both the Federal and State constitutions that no person shall be twice tried or punished for the same offense.

The repeal of the Mullan-Gage Law will put the State in harmony with the recent decision by United States District Judge Knox, declaring a portion of the Volstead Act to be in contravention of the Eighteenth Amendment. By that decision the United States District Court in New York has laid down the principle that the prohibition contained in the Eighteenth Amendment does not apply to the necessary and proper prescription of alcoholic liquors for medicinal purposes and that the Federal Government gains no power under the Volstead Act except to prohibit traffic in alcoholic liquors for beverage purposes as distinct from medicinal purposes. Provisions of the Mullan-Gage Law if left in force would still maintain in the law of this State the limitation contained in the Volstead Act which the great body of the medical profession in our State seems practically unanimous in denouncing as an interference with the necessary requirements of their profession.

The repeal of the Mullan-Gage Law will mean that violations of the Volstead Act will hereafter be prosecuted in the Federal courts. This, to my mind, seems to be desirable, as it will fix in the minds of the offenders the thought that they have violated a federal statute intended to effectuate an amendment to the constitution of the United States, rather than have them harbor the thought that they are simply standing against what a great many of them may be led to believe is merely a local regulation.

The burden imposed on the State to prosecute traffickers in liquor as violators of the State statute is a wasteful and futile one because of the refusal of grand juries to indict and of petit juries to convict.

Let us apply to this question the principles of good business, good judgment and common sense. I promised myself that I

would not consider this subject solely from the standpoint of constitutional law or political expediency and I have labored to make my study of it practical. While there will be no let-up on the part of the police officials of this State in the enforcement of the Volstead Act, I cannot help thinking and saying, as I owe it to the people of this State to say, that the real solution of proper enforcement rests primarily with the Federal Government.

The practical side of this question, to my way of thinking, indicates that little, if any, of the liquor consumed in this State is manufactured here. It is imported from foreign countries. The Federal Government is the one agency that can attack the base of supply. It is infinitely easier to stop the smuggling in of five hundred cases of liquor before bulk is broken than to trace the same five hundred after they find their way into different parts of the State in small quantities.

The division of responsibility for primary execution of the enforcement law may, in part, explain the failure of federal enforcement officials to stop the smuggling of liquor in bulk into this State, which has certainly raised a serious question as to the efficiency and in some cases the earnestness of Federal enforcement agencies. Whenever the ultimate responsibility is divided there is a tendency for each authority or agency upon whom it rests to rely upon the other. The State in the nature of things cannot guard her frontiers of land and water against this smuggling as well as the federal authorities should be able to do it. If we place squarely upon the federal authorities the primary duty and obligation to put an end to the enormous smuggling of liquor from foreign countries into this State it will be where it rightfully belongs and we will have taken a long step forward to the re-establishment of respect for and enforcement of law.

Over and beyond all this, I believe the approval of this repeal will reawaken in the public mind the fundamental conception of the law of the land and re-establish beyond doubt what constitute the essentials of the relation between the Federal Government and the sovereign states of the Union.

Recently the President of the United States in reply to a letter from a citizen of this State who had suggested to the President that the repeal of this act bore the color of treason, said without disclaiming this particular suggestion, "With much that you say I am fully in accord."

I yield to no man in this country when it comes to respect for the utterances of the Chief Executive of the United States, but it is impossible for me to be unmindful of the fact that I am the Chief Executive of a sovereign State, and I am entirely in accord with a statement put forth in the course of this discussion and signed by former Judges Willard Bartlett, Almet F. Jenks, E. Henry Lacombe and Mr. Austen G. Fox, which dealt with the letter of the President and which, in part, said:

"It would be a calamity to permit such fundamental misconceptions of the relations between the states and the Federal Government as may seem to be suggested by portions of the President's letter to pass unchallenged."

The children in our public schools have been taught to believe that our government rests upon the foundation that the states are sovereign with respect to all powers not expressly delegated by them to the Federal Government, and that while the laws of Congress are paramount within the delegated power, the states are sovereign within the reserved power. History gives us the reason for this. In the formation of the Union our forefathers in their wisdom understood that with our vast area and its heterogeneous population with their varying local interests, what may be sound local policy in one community may be entirely inappropriate to the needs of another. To any student of our government I think it must be apparent that one of the great elements in the strength of our democracy is the supremacy of the Federal Government in its own sphere and the sovereignty of the several states in theirs.

We have been taught that eternal vigilance is the price of liberty, and how far we may wander from the thoughts and ideals of the founders of our government is well illustrated by the suggestion in the President's letter that because the states have a larger police force than the Federal Government

has, and because the Federal Government has at this time what the President describes as an inadequate machinery for the enforcement of the Volstead Act, therefore the estates are obliged severally to enact statutes duplicating the Volstead Act. I am unable to understand from what source he believes this obligation to be derived and he does not disclose it. The President might, with equal force, suggest that at any time Congress in its wisdom saw fit to withhold adequate appropriation for the enforcement of any federal law, that there immediately devolved a duty upon each State to enact that Federal law into a State statute and make every offense against federal law not enforced, a duty upon the States to punish it as a State offense and at State expense.

I am not here discussing the wisdom or unwisdom of prohibition. The question is rather whether all vestige of the rights of the States guaranteed by the Federal Constitution is to be driven from our political theory of government. With all respect for the President of the United States I must here reassert this principle against his challenge and as the Chief Executive of the greatest sovereignty in the Union, it is my duty to declare and maintain that sovereignty in exact accordance with the guarantees of the Constitution. This does not mean that a State has any right or power to enact any law that in any way infringes upon a constitutional act of Congress, but it does mean that the Federal Government has no right to impose upon the State any obligation to pass any statute affirmatively embodying any federal statute.

The whole treatment of this question, and I speak only from history, has been marked by hyprocrisy. There should be no such thing as carrying water on both shoulders. What the country is looking for to-day, if I read the signs of the times aright, is a constructive, forward-looking suggestion that disregards entirely the fanatical wets and the fanatical drys.

I yield to no man in my reverence and respect for the Constitution of the United States, and I advocate nothing which will infringe upon the provisions of the Eighteenth Amendment. It is, nevertheless, a fact that the definition of an

intoxicating beverage contained in the Volstead Act is not an honest or a common sense one. It is impossible to divorce from the public mind the impression that the definition of an intoxicating beverage as containing not more than one-half of one per cent of alcohol was written by the fanatical drys in defiance of the general experience of mankind and of actual fact. It seems to me that common sense, backed up by good medical opinion, can find a more scientific definition of what constitutes an intoxicating beverage. Such a definition should be adopted by Congress as a proper and reasonable amendment of the Volstead Act and a maximum alcoholic content should be prescribed by Congress which would limit all States to the traffic in liquors which are, in fact, non-intoxicating within the meaning of the Eighteenth Amendment. Subject to that limitation, each State should thereafter be left free to determine for itself what should constitute an intoxicating beverage. States which then wished to limit traffic to beverages containing not more than one-half of one per cent of alcohol would be free to do so and those which desired to extend the traffic to the maximum limitation allowed by federal statute would be equally free to do so. There could be, within the limitations of the maximum, many differences of degree, extending even to the complete prohibition by some States of traffic in liquor containing any alcohol whatever.

This would be in keeping with the freedom and liberty of different States with differing local conditions to legislate for themselves, subject always to the maximum limitation enacted by Congress, which would be paramount.

I offer this as a constructive suggestion which will relieve the country from the stress of this perplexing question which affords such a widespread difference of opinion and thus give our people a chance to turn their minds to other and greater questions that are pressing for solution.

Much has been said in the public prints with respect to the effect my action on this bill may have upon my own political future. I have no political future that I am willing to attain by the sacrifice of any principle or any conviction of what in my

mind is for the welfare and the benefit of this State and Nation.

Because I believe there is nothing to be gained either for the Nation or for the State by the retention of this statute, while on the other hand, I believe that its repeal is of distinct benefit in the preservation of the rights of our people, because I believe that the repeal of this statute in no way nullifies the enforcement of the Volstead Act, because I believe that the fastening of the primary responsibility for prosecution for violations of the laws enforcing the Eighteenth Amendment should be upon the federal authorities, and because I believe finally and most of all that the preservation of American democracy requires the maintenance of that balance between State and Nation which is guaranteed by the Constitution of the United States, and that the reassertion of that principle is to-day of vital consequence to the preservation of the democratic form of government guaranteed to us by the Constitution, and being mindful of the responsibility placed on me by the electorate of this State, grateful for their overwhelming vote of confidence, devoted as I am to the welfare of the country and to the happiness and the prosperity of the State, I have, after careful thought, arrived at the conclusion that the bill before me should receive executive approval, and I therefore approve the bill.

(Signed) ALFRED E. SMITH.

The Governor placed the same historic emphasis as does the Democratic party upon the keeping of power in society and resting this power on a government from above as little as possible. Even in the enforcement of law the Governor believes in taking cognizance of local and State sentiment. For a law without public opinion behind it leads to its violation and to that disrespect of all law which is the parent of lawlessness.

His was no argument against the prohibition amendment. What he urged was a modification of the enforcing act, bringing it into harmony with public opinion. His quarrel is not with the necessity for enforcing the law as it stands.

The record of the enforcement officials in the State since the repeal of the Mullan-Gage Law did not bear out the dire predictions of the fanatical drys. New York State was not deluged with bootleg liquor. The sources of entry were not adequately protected by the Federal Government either before or since the State enforcement law was repealed. In fact the Governor was able since the repeal to show a better record of arrests by the departments within his control. However, he did everything in his power to co-operate. At a conference of Governors held under the auspices of President Coolidge, a resolution was passed urging active support by the Governors of the various states in enforcing the prohibition amendment. Complying with those resolutions and with a request by the Federal Enforcement Officer for the State of New York, he called a conference of enforcement officials at Albany. There he talked plainly:

The preamble of the Constitution reads, "WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

While we may disagree as to what may establish justice and what might promote the general welfare, or what may secure the blessings of liberty, there is one thing that we cannot disagree on and that is that unless the Constitution is obeyed and sustained in its every letter, it can serve no useful purpose. As the chain is no stronger than its weakest link, so also the Constitution means nothing if any person or group of persons be permitted to select that part that they are in accord with and dismiss the part that does not meet with their approval. When we as public officials swear to uphold the Constitution of the United States in our oath of office, it means every part of that Constitution whether we agree with the principle involved in any one section or not.

The Eighteenth Amendment is a part of that Constitution, and just as sacred as any other part. The so-called Volstead Act, making operative that Eighteenth Amendment, is just as sacred as any other law in the country, and we are not here for the purpose of expressing our individual opinions as to the wisdom either of the amendment or the law sustaining it, but we are here to discuss the best and most practical way of enforcing the amendment and the laws sustaining it, so that our conference is one upon law enforcement and does not run to the principle involved. I think everybody will agree that the proper and vigorous enforcement of all laws is the cornerstone of democratic government. When any man or group of men are permitted to respect and obey only such laws as meet with their approval, we have not a democratic government formed in perfect union, we cannot establish justice, we cannot insure domestic tranquility, and we cannot promote the general welfare and we cannot secure the blessings of liberty to ourselves or our posterity, but we can bring about a state of anarchy that has its life and its being in disregard of all law.

The Governor then went on to show that the State, without the Mullan-Gage Law, had ample power to enforce, and was enforcing, the Volstead Act, and that the repeal of the Mullan-Gage Law in no wise led to the lessening of the activity of the State Police. He submitted the following figures in proof:

Six Months Prior to Repeal of Mullan-Gage Law

Date	Arrests	Liquor Cars Seized	Value of Liquor	Investigations
December, 1922....	9	3	$5,435.00	7
January, 1923	6	2	3,200.00	16
February, 1923.....	0	1	2,080.00	11
March, 1923.....	10	2	400.00	8
April, 1923.....	7	4	7,035.00	12
May, 1923.....	11	6	3,399.00	10
Totals.....	43	18	$21,549.00	64

Six Months After Repeal of Mullan-Gage Law

Date	Arrests	Liquor Cars Seized	Value of Liquor	Investigations
June, 1923.....	23	17	$13,300.00	17
July, 1923.....	1	1	270.00	20
August, 1923.....	8	14	6,300.00	22
September, 1923....	16	8	4,000.00	16
October, 1923.....	40	28	8,240.00	10
November, 1923....	36	31	9,250.00	6
Totals.....	124	99	$41,360.00	91

Comparison

	Arrests	Cars	Value	Investigations
Before.....	43	18	$21,549.00	64
After.....	124	99	41,360.00	91

To make the work of the State police more effective in policing the international and interstate boundaries of New York, he recommended and signed appropriations of an additional half a million dollars for more troopers and more effective enforcement equipment.

CHAPTER XXXVIII

"Better Times" for the Sick and the Disabled

In February, 1923, a fire broke out in the insane pavilion at Manhattan State Hospital, resulting in the death of twenty-three patients.

This tragedy shocked people into a realization that many State hospitals were fire-traps. Some had to be replaced by new fire-proof structures. Others required fire-proofing.

Taking advantage of an aroused public indignation over the conditions revealed by this and other minor ones occurring at the same time, the Governor determined upon a bold policy to make the State institutions safe for their wards. He realized that inadequate appropriations made year after year could not meet a building program long neglected, especially during the war. He advocated a Fifty Million Dollar Bond Issue. The Legislature approved. It was authorized by the people at the 1923 election.

On Wednesday, October 31, just a week before the question was submitted to the people, the Governor addressed 1,500 leading citizens interested through their participation in the directorate and management of the social and civic institutions of the City and State. The occasion was a dinner, all the more memorable from the presence of distinguished and efficient social workers. The banquet was presided over by Robert W. De Forest, given under the auspices of the friends of "Better Times," a magazine devoted to social causes in New York City.

Although this was in the heat of a campaign when he was fighting for an Assembly to support him in his program, the Governor gave an entire evening to non-partisan discussion of New York State's institutions, using stereopticon views to expose the unsafe conditions prevailing among them and setting forth a business argument for the bond issue in addition to its social appeal. He added to it a plea for his entire welfare program.

CHAPTER XXXIX

Some Thoughts on Prison Reform

Some suggestions on prison reform from mature reflection upon the Governor's experience with the problem as a legislator and especially as an executive of the State was submitted by him to the Convention of the American Prison Association in New York City on October 20, 1919. He said:

So far as this State is concerned, the first thing I would say is that the present system of putting upon the Governor of the State the final decision as to whether a man should go to the death chair, or whether he should serve a term of life imprisonment, is entirely wrong. That should not be in the hands of any man who is charged with the governorship of a State, because he can scarcely do it and at the same time do justice to the prisoner and the State.

The second thought that I have in mind refers to the pardoning power. I appreciate the arguments made against a Board of Pardons; that it practically creates a new court of appeals, but, on the other hand, here is a great group of men and women in the prisons of our State, and under the Constitution of the State I am the only man that can do anything for them. How is it possible for me to study each case? What case may have proper attention? The only cases which get my attention are those which are brought to me by some one traveling to Albany to see me, perhaps about a specific case. Surely, I never would have time to go through the list of applications for Executive clemency. I would say that if any man did do that he could do nothing else, and then he would not do justice.

The next thing I would speak of, so far as this State is concerned, is industry within the prisons. I can think of nothing which is so deadly, nothing which will so tear down the spirit, nothing which will so sap up a man's energy and ambition as confinement in enforced idleness. If we have no other idea in mind except the question of punishment, then that is one thing; but if, on the other hand, the State is interested in returning the men or the women to society as useful citizens, it will never be able to do it unless during that period of confinement their thoughts and their minds are occupied by what they are able to do in life. What work means, what satisfaction it brings to a person at the close of a day to say, here is what I have accomplished to-day!

. . . The trouble with the prisons in this State from the standpoint of industry is this: We are trying to work with antiquated machinery, old-fashioned tools and the finished product as it comes from the prison is not useful except in rare instances. In order to keep our equipment up to the style of our building and in keeping with our surroundings we have been obliged practically to get away entirely from prison-made furniture, something the State buys a great deal of, because our plant is not capable of turning out high-class goods in keeping with the surroundings, and you can hardly blame a public official who would be loath to put a $32.00 desk in the corner of an $8,000,000 building. Modern machinery and modern equipment is absolutely necessary to keep the products of the prison up to the standard required for public use.

My next suggestion, I am afraid, is too far in the future, although I am strongly in favor of it. But we might as well talk of these things with the hope of getting them some day. I refer to the abolition of the cell block system.

I received the shock of my life when I went to a reformatory in this State. I thought it was a place to send the young man whom we did not want to mingle with the hardened criminals. I thought it was a place where we could send a young man to let him feel a little of the charity of the State, the goodness of the State. Let him feel that the State had a real heart and did

not want to send him to prison. When I went into that reformatory to look over the cell block system, with the single door locking at night, the cramped-up cell, the open toilet alongside the bed, I said this is not a reformatory except in name. What is there about this that is different from a prison and why raise a false hope in the heart of a young first offender by making him believe he is going to a reformatory when he is going into a regular prison? The fact of the matter is, I am reliably informed, that where a young fellow knows anything about it he asks to be sent some place other than the Elmira Reformatory. He does not feel the State is doing anything for him when sending him there.

We have a prison in this State of the modern type, that at Comstock. Of course, the ideal system would be the cottage plan if it could be put in operation. I really do not believe that in the twentieth century we have to cage men up in the same way they did in 1834 and 1835, even if we take it from the standpoint of whether or not they will escape. To-day it is not so easy to escape from prison even with an automobile or motorcycle. A man cannot get very far away before he is found, and probably it would be a great deal better if one or two occasionally did get away than to destroy hundreds of them by tying them down to the floor.

I am coming to another subject, the earnings of the prisoner while in confinement. I feel strongly on that subject. It has been my experience not only since I have been Governor, but all the years I was in the Legislature, that the real sufferers as a result of a prison sentence are the dependent members of the prisoner's family. I do not think it is a question that admits of any discussion. The prisoner is taken over by the State, supported, fed and clothed; and his children, if he has any, and unfortunately a great many of them have, and his wife are thrown upon the mercy of friends and relatives or else become public charges. The most pitiable cases one can listen to are constantly brought to the attention of the Governor, actual want and actual starvation, as the result of the breadwinner being locked up in the State prison. In some instances it is unfair to

the State to hold a man in prison when the children are in want; it is unfair to society to let them out. In a great many instances the man is where he belongs but that does not take from the State the obligation to do something for the man's wife and children while he is in prison.

This paragraph in his last annual message to the Legislature expresses his attitude toward prison administration.

In our administration of prisons I think it is safe to say that the attitude of the State should not be one of seeking vengeance. No man after offending against society should be kept merely in restraint. We should strive rather to rehabilitate. The State should put it in his power if his will is properly directed to become again a useful member of society. He should not be forever frowned upon simply because with the human weakness inherent in us all he made one stray step from the path of rectitude.

As a result of Governor Smith's initiative, one of the greatest of all the problems engaging him—that of prison reform—is progressing towards solution..

Impressed by the report of the prison survey commission (appointed in his first administration) and by the recommendations of an investigating staff appointed by him in 1923, he induced the passage by the Legislature in 1924 of a notable bill. It provides for a complete reorganization of the prison industries of the State. It will make them modern, more productive. It furnishes the prisoners with that incentive to self-respect which comes from a fair wage for work performed and from consideration of their industrial record in connection with behavior records generally submitted in applications for parole. Prisoners will thus be enabled to contribute toward the support of their families, many of whom become public charges under existing conditions. It will lay by a substantial sum of money while the prisoner is acquiring the habit of industry on the basis of a new start in life when free.

CHAPTER XL

A Conservation Policy in the People's Interest

From the outset of his public career, Smith has been fighting the people's battle for the ownership and control of natural resources. He was particularly concerned regarding conservation of water powers. In the Legislature he was known always to advocate public development. We have seen how in the Constitutional Convention he prevented the interests from dominating the Conservation Commission by disqualifying for membership on it any person having a direct or indirect relation with hydro-electric enterprises. He succeeded also in making a policy of public development constitutionally possible.

In his first message to the Legislature as Governor, Smith urged a definite policy on water power.

Ever on guard against the exploitation of the State's water powers by private interests, he was quick to veto bills which prepared a soil for future harvests when governors or legislatures more friendly to such a program might be in power.

Accompanying his veto of a bill creating a water power commission and conferring upon it "certain duties of investigation as to the cost, transformation and transmission and distribution of electrical energy created by the water power of the State, the Governor explained at length that there had been plenty of committees and commissions which had collected data; what was needed was legislative action to empower the State to control its natural resources.

After the close of the session of the 1919 Legislature, the Governor made pertinent references to the attitude of the Republican Assembly on the general and practical phases of water power development. To quote one:

On Tuesday last I visited the city of Oswego. That city owns possible water power development on the Oswego river of one hundred thousand horse power, I am told, and I believe it to be the fact that the electric light monopoly in the city of Oswego has influence to stop that city from developing that water power. It was given to it by the State. The State erected the dam. All the preliminary arrangements were attended to and just as soon as the city began its development the electric light company got an injunction restraining them from using it on the ground that the city charter did not give to the city officials the power to do so. In the last session of the Legislature an attempt to pass a bill granting such power went to the Assembly and there went down to defeat. So that a handful of men owning monopoly privileges were able to push that city up against the wall.

In his second message to the Legislature he again urged upon them to develop a definite water power policy. He said:

Another year has passed and added further to our history the folly of permitting our great natural water resources to go undeveloped. We are continuing to drag coal into the State for the purpose of generating electrical energy that could be brought into being by harnessing our great natural resources, and we sit by and permit this energy to run to waste.

There are three classes of people interested in water power development. The first class is the old-time reactionary individual who believes in private ownership and private development with a very small if any return to the State. The second class is made up of the men who believe in development by the State, with long leases to private individuals. The third class is composed of men who believe in ownership, development and operation by the State. If the people themselves are to get the full benefit of the development of their water power resources, it will have to be done in conformity with the ideas held by the

third class. In every spot in this State where by our past policy we have permitted private development, nobody has benefited but the individuals who have been lucky enough to secure the rights.

Once more he thwarted an attempt of the power interests in a veto memorandum of a law permitting certain private individuals or corporations to use some of the water power of the State for hydro-electric energy.

In the 1920 campaign against Judge Miller for the governorship, Smith carried his water power fight to Miller's home town of Syracuse and devoted a greater part of his speech in criticism of the Republican water power policy friendly to private development and in justification of his own position.

In the 1923 election the people of the State rejected by an overwhelming vote, a proposal to amend the constitution permitting the development of water power in the Adirondacks by private corporations, the building of transmission lines for a superpower system through the Adirondack Park, and legalizing the unconstitutional development of water power in this park under the guise of river regulation. Only two counties out of the sixty-two in the State voted in favor of this amendment.

What was known as Adirondack power grab (one link in a chain of grabs which the private water-power interests of the State were forging) was frustrated. The people had spoken by an overwhelming vote against the policy of private development and in favor of public ownership, control and development.

Governor Smith was heartened by this expression of popular sentiment. He submitted to the Legislature of 1924 a practical plan of water power development. It applied the principles of public ownership and operation. It also enabled those privately interested in water power development to co-operate with the State (under its control of water

powers at their source) for a reasonable return on any capital invested, but no more.

During the years the Governor fought the private interests by an out and out public operation policy, it was difficult to meet the argument that public operation required a bond issue amounting to many hundred millions for its realization. The State either could not afford it or would not attempt it. But with his experience on the Port Authority and with his knowledge of its organization and legal powers, he recommended a solution for this complicated problem. It met the dilemma of either private water power exploitation or impractical public development.

The Republican Assembly leaders were taken by surprise. Here was a solution based on knowledge, and in the opinion of practical men it was a sound financial proposition. Objection was soon made by advocates of private development that the bonds of the Water Power Authority would not be marketable! Everyone familiar with the Niagara River project with its possibilities of a 500,000 horse power development (and the demand for power as soon as it was ready for transmission) knew that the power could be sold as soon as it was generated.

The Republican Assembly ostensibly accepted the bill embodying the recommendation of the Governor, but refused to embody in any bill the principle that the ownership of the State's water power can never be alienated from the people.

They were willing to survey and to investigate, even to create a Power Authority. They were not willing to commit themselves to the principle of public ownership and control.

Moreover, they were unwilling to abolish the State Water Power Commission created by a Republican Legislature in 1921 and approved by a Republican Governor and to centralize the functions relating to water power in the proposed

water power authority. The State Water Power Commission had the power to grant licenses for private developments. Two applications for licenses were pending before it. But for Governor Smith's resistance, valuable power grants would have been leased to private companies.

The Democratic Senate passed the Governor's bill and the Assembly enacted its own legislation, leaving out permanent State ownership. A deadlock ensued. The Governor made a final plea to the Assembly for his legislation in the last hours of the session, but the water power interests retained their grip and it did not pass.

CHAPTER XLI

Reviving the Port of New York

The first task of the Port Authority, created by the legislatures of the States of New York and New Jersey was to work out a physical plan of developing the Port of New York. This plan was to be presented to the legislatures of both states. Commissioner Alfred E. Smith contributed greatly to this task. When the plan was ready for submission to the Legislature of 1921, he fought one of the hardest battles of his career for its adoption.

He was opposed by powerful railroad interests. They clung to the policy of competition for terminal business. They opposed the Port Authority's recommendation of unified terminal operation, which they contended would reduce the cost of transportation to the shipper, and would be reflected in lower costs to the consumer.

Strenuously opposed to the plan, was the government of the city of New York. Democratic officials declared that the plan favored the New Jersey side of the port. They submitted a counter-plan involving a freight and passenger tunnel running from Staten Island to South Brooklyn and connecting with the trunk lines in New Jersey, and located the principal belt line connection far out behind the New Jersey hills.

Against the powerful opposition of the railroads and the parochial point of view of the city government, Smith appeared at a hearing in Albany on January 30, 1922. It was

held in the Assembly Chamber, which was packed to the doors.

To Smith it was a business question of supreme importance, and politics had nothing to do with it. He sat in his old seat in the Assembly, which brought memories of many past debates he had led. When he arose to speak from that seat, dangling his watch chain, a familiar gesture, he was warmly greeted. Smith's speech at that hearing made the plan clear to the simplest intelligence. His sense of humor threw light on his subject and brought the laugh of recognition.

This speech along with all of Mr. Smith's speeches on other concrete measures, such as water power development, child welfare, widows' pensions, night work for women, labor laws, the executive budget, prison reform, must fill the reader with amazement over his tremendous and accurate information. It is as though he took about with him an invisible prompter who poured all the facts and dates and names and incidents into his ear as he spoke. Never is he at a loss. That is his great weapon against his opponents—his absolute knowledge of any subject that arises for discussion. It is not alone his retentive memory that must arouse astonishment; even more miraculous seems the immense amount of research implied in each speech.

For instance, this speech on Port Authority (too long to quote) is packed with all the data of the case covering the period of the past five years during which the case had become active.

At Albany he talked to the man in the street in the colloquial, spontaneous, man-to-man fashion characteristic of Al Smith in a fighting speech. The address delivered on March 18, 1922, before the Lawyers' Club covered the ground in a manner more appealing to the trained legal minds who heard it. He got the same response from both types of audience.

CHAPTER XLII

The Quality of Smith's Americanism

The celebration of Independence Day has been a hallowed custom of the Tammany Society. The sachems and members gather together in their historic hall on Fourteenth Street and there listen annually to a reading of the Declaration of Independence. A set oration, historically known as the long talk, is delivered by an invited orator, usually a distinguished Democrat of national reputation. Following him short talks are given.

On July 4, 1923, Governor Smith spoke.

After outlining the historic meaning of the Declaration of Independence and its effects both upon this country and the rest of the world, he concluded:

> Now, after 147 years of experience in democratic constitutional government we note a tendency among progressives in all parties to go back to the principles of Jeffersonian democracy as a refuge from the oppression of privilege. What is the demand to bring the Government back to the people but a demand for return to the principles of democracy as set forth in the Declaration of Independence. Nothing is clearer today than that the only type of government which is stable and lasting in the long run is that which receives its sanction from the majority of the people.
>
> I could spend a great deal of time outlining to you how successful we have been as a nation during the comparatively short period of our national life. When our Constitution was adopted in 1789 the population of the whole country was less than half

of the population of Greater New York today. It can all be summed up in a few words when we say that America today leads the world, and that it is the commercial and financial center of the universe, and each recurring anniversary of that memorable day in our history should bring home to us the lesson of our duty.

Liberty is an elusive thing. It is something that must be guarded and protected. An eternal vigilance is the price of our soul's salvation, so it is the price of our liberty. Let us, therefore, on this day, as a lesson and an inspiration to the youth of the country, once more proclaim our allegiance to the immortal document—to the Constitution that sustains it, and to the flag that represents them both, and when we retire to our homes let us thank God for his watchful care of our country since its discovery, and let us pray for his blessing upon our future, asking it all in the name of his Divine Son who gave the world the greatest lesson and example of the equality of men.

Here is how he responded to a request made by the New York World for a statement to be published on Armistice Day in 1923:

Though the armistice was signed five years ago today, the war in Europe is not over. It is not over because the seeds of war are in the governments and in the hearts and minds of many of the people who fought the war. The historic hates and suspicions which led to the greatest man-made carnage in history have not yet been obliterated. As long as we think and feel in terms of war we cannot have peace.

Why have the conferences at Geneva, at Cannes and other places resulted in futile talk? The answer is that as long as people do not think and feel in terms of reconciliation, statesmanship and diplomacy are as insubstantial as air.

Europe of today is the victim of the war mind. The hope of civilization is in the birth of a new statesmanship, which recognizes that hate is a barren and destructive emotion and that good will is not a sentimental feeling but a positive constructive force.

The statesmanship which Europe sorely needs must emanate from hearts filled with a desire for unity and reconciliation.

The history of our own country is a shining example of the fruits of such a policy. It took a bloody civil war to maintain the Union. But this precious unity was actually achieved by the spirit of reconciliation so beautifully expressed by Abraham Lincoln, "With malice toward none, with charity for all . . . let us finish the work we are in . . . to bind up the Nation's wounds."

Such a statesmanship could also achieve for Europe a unity amidst variety, a federation of Europe and not the prostrate body politic it now presents.

CHAPTER XLIII

An Even Keel
The Return to Fundamental Americanism

The second year of Governor Smith's administration brought to a climax the problem of handling the revolutionary elements. Their efforts were stifled by a vigorous policy of government repression, sanctioned in large part by public opinion reflecting the will to victory during the war, and recognizing the necessity of dealing forcibly with any propaganda which tended to weaken national unity and lend aid and comfort to the enemy. War is an emergency, and good sense dictates that under war conditions emergency measures limiting our freedom may be necessary to achieve results. Unfortunately, such temporary lapses from democratic practice are often accepted by many as normal procedure when war is over and peace has set in.

In peace, the cause of ordered liberty under law which is the essence of American institutions is endangered and jeopardized by the method of violence to fight violence

The war unsettled not only the things but also the minds of men. A period of hysteria set in which sanctioned official acts violative of the very principles of freedom under law, of the rights of individuals against the clamor of the mob, of the constitutional guarantees of free speech and free assembly and even of representative government, principles which are the warp and woof of any Democracy worthy of the name.

New York State was not free of this hysteria. It was

stimulated by a prejudice against aliens. Some of these, though unrepresentative of the mass of foreigners, were doubtless leaders of Bolshevik and extreme radical groups organized to undermine and destroy our government by conspiracy and force. When passions are hot, the true leader is he who can keep his head and navigate on an even keel. In such an atmosphere Smith used healing words in his message to the Legislature. When referring to the Bolshevism and unbalanced radicalism, he said:

We are a government by the will of the majority. No other kind of rule is democracy to an American. We ascertain that will by free public discussion. Such rights as that of free speech and free assemblage are fundamental, for without them government by enlightened will of the majority is not possible.

During the war in the interest of national unity and for our common defense against our enemy, every sane American relinquished some of his freedom.

Now that the war is over, we should return to a normal state of mind, and keep our balance, and an even keel.

The anarchist, the violent revolutionist, the underminer of our institutions should receive no mercy at our hands. He does not belong here. But while we should be relentless toward this type of distorted personalities, we must not confuse them with the hundreds of thousands of our brothers of alien stock, who have made America their home and who have helped to build up our great nation by self-respecting labor and their citizenship. Their sons have added luster to our name in the battlefields of the great war. Let us remember them now and let us resent as sinister and as a new expression of the old knownothing spirit, the attaching to all citizens of foreign birth the stigma of radicalism.

I express myself thus feelingly because I know them. I have lived among them. Many of them have been my friends and neighbors. The discontent among them is often the natural homesickness of men and women who do not yet feel at home in their new surroundings. Some of it is due to an exploitation of their helplessness and ignorance. Such discontent every red-blooded

many respects. It is different from the destructive spirit of revolutionary firebrands. It should be met by a constructive movement of Americanization, which will make them understand and respect the ideals of America and make them feel at home. The State needs and welcomes to its citizenship the best that the Old World has to give us.

Appreciating as I do the fundamental wholesomeness of the citizen of foreign birth, I am mindful of the danger of spreading the infection of revolutionary propaganda among them. We must immunize them against the infection, by approaching the problem in a spirit of sanity, a thorough and sympathetic understanding and a fearless and courageous meeting of their needs. This is the fundamental basis of any Americanization program.

In this connection we must recognize the necessity of a sound program of social, industrial and governmental betterment, which will remove those causes of discontent which true Americanism requires should be eradicated.

The spirit of these words did not animate the Republican Legislature. At the opening of the session a movement was set on foot and soon consummated to oust five Socialist Assemblymen elected from New York City. Thus were created five vacancies in the assembly, denying the constituencies concerned representation achieved through a lawful election. The expelled Assemblymen were tried on charges that they were hostile to our form of government and advocated principles subversive of our institutions and designed to overthrow them by force.

Ousting the Socialist Assemblymen first and trying them afterwards aroused a storm of opposition from many quarters. The Bar Association representing the distinguished members of the New York Bar appointed a committee and submitted a brief protesting against such action as violative of the first principles of fair procedure under our law and conceptions of justice and representative government. Governor Smith, though he appreciated the status of the Legisla-

ture as a co-ordinate branch of the government, was nevertheless impelled to issue the following statement on the action of the Assembly in depriving of their seats five members of the Socialist party.

Although I am unalterably opposed to the fundamental principles of the Socialist party, it is inconceivable that a minority party duly constituted and legally organized, should be deprived of its right to expression so long as it has honestly, by lawful methods of education and propaganda, succeeded in securing representation, unless the chosen representatives are unfit as individuals.

It is true that the Assembly has arbitrary power to determine the qualifications of its membership; but where arbitrary power exists it should be exercised with care and discretion because from it there is no appeal.

If the majority party at present in control of the Assembly possesses information that leads them to believe that these men are hostile to our form of Government and would overthrow it by processes subversive of law and order, these charges in due form should have been presented to the Legislature and these men tried by orderly processes. Meanwhile, presumably innocent, until proven guilty, they should have been allowed to retain their seats.

Our faith in American democracy is confirmed not only by its results, but by its methods and organs of free expression. They are the safeguards against revolution. To discard the methods of representative government leads to the misdeeds of the very extremists we denounce—and serves to increase the number of the enemies of orderly free government.

In the face of protests from such lawyers as Ex-Governor Hughes, civic organizations and organs of liberal opinion, the trial went on for months. The report of the committee was condemnatory of the five Assemblymen. One outcome of the trial was the appointment of a joint legislative committee under the chairmanship of Senator Lusk, to investigate revolutionary radicalism. The committee worked feverishly

(sometimes with the aid of detectives) to unearth evidence of conspiracies and of direct and indirect propaganda of a violent and revolutionary character. A mass of testimony and voluminous volumes were published containing in part documents of historic value to the student of radical movements but also conclusions which were born of hysteria and apprehension.

The committee made some constructive recommendations of value in the direction of true Americanization. Unfortunately its members showed a distorted perspective by the emphasis laid on detecting disloyal elements. With the zeal of medieval heresy hunters, the committee recommended legislation to aid in detecting the conspirators and in testing the loyalty of teachers as well as regulating the registration of schools and school courses to prevent the young from being corrupted by reds and radicals.

Three bills intended to carry out these purposes were passed by the Legislature. The Governor vetoed them. His accompanying memoranda clarified the atmosphere. They stemmed a dangerous tendency which under the guise of patriotism gave power to secret police and to administrative boards characteristic of Czarist Russia and alien to Anglo-Saxon conceptions of justice under law and the rights of individuals under American institutions.

In his veto of the bill dealing with State prosecution for criminal anarchy and providing special facilities for its detection the Governor said:

> The traditional abhorrence of a free people of all kinds of spies and secret police is valid and justified and calls for the disapproval of this measure.
>
> The bill is, therefore, disapproved.

He also vetoed a bill requiring a loyalty test for teachers.

> Opposition to any presently established institution, no matter

how intelligent, conscientious or disinterested this opposition might be, would be sufficient to disqualify the teacher. Every teacher would be at the mercy of his colleagues, his pupils and their parents, and any word or act of the teacher might be held by the Commissioner to indicate an attitude hostile to some of "the institutions of the United States" or of the State.

The bill unjustly discriminates against teachers as a class. It deprives teachers of their right to freedom of thought, it limits the teaching staff of the public schools to those only who lack the courage or the mind to exercise their legal right to just criticism of existing institutions. The bill confers upon the Commissioner of Education a power of interference with freedom of opinion which strikes at the foundations of Democratic education.

The bill is, therefore, disapproved.

In his veto of the bill licensing schools and supervising school courses to prevent the spread of un-American doctrine, he used these forceful words:

The clash of conflicting opinions, from which progress arises more than from any other source, would be abolished by law, tolerance and intellectual freedom destroyed and an intellectual autocracy imposed upon the people. The destruction of the German Empire, through the blind inability of its people to understand the spirit of free institutions, is a striking example of the ruin that may ensue from forcing into a narrow, governmental mold the processes of education. The proponents of these bills urge that they are essential to the protection of the community against radical opinion. I might rest upon the saying of Benjamin Franklin that "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." But I go further—the safety of this government and its institutions rests upon the reasoned and devoted loyalty of its people. It does not need for its defense a system of intellectual tyranny which, in the endeavor to choke error by force, must of necessity crush truth as well. The profound

sanity of the American people has been demonstrated in many a crisis, and I, for one, do not believe that governmental dictation of what may and may not be taught is necessary to achieve a continuance of the patriotism of our citizenship, and its loyal support of the government and its institutions.

The bill is, therefore, disapproved.

After destroying attempts to pass statutes in violation of time-honored principles of free government, the Governor proceeded to repair the damage done to our system of representative government by issuing a proclamation on September 16, 1920, calling for special elections in the five Assembly districts that would otherwise be unrepresented at the extraordinary session of the Legislature which he called at that time for housing relief for New York City. "I am unable," he said, "to bring myself to the undemocratic way of thinking that five large Assembly districts, containing a population of approximately 250,000 people in the counties, wherein the unrepresented Assembly districts lie, and vitally affected by the housing conditions, should be without representation in the Assembly."

Smith struck one more blow at the war spirit when upon his re-election in 1922, he pardoned Jim Larkin, convicted under the Criminal Anarchy statute of the State during the war. Larkin's revolutionary radicalism was abhorrent to him. Toward his opinions, which tended to weaken the power of our government in its war against her enemy, he shared the verdict of the courts and juries. But the war was over for three years, and he recognized that Larkin was a political prisoner. In a statement setting forth his reasons for the pardon of Jim Larkin, the Governor signalized a return to spiritual normalcy which recognized the difference between common crimes and political war crimes in time of peace which should not be tolerated under American institutions. Later, for the same reasons, he pardoned the remaining political prisoners held by the State.

CHAPTER XLIV

The Hearst Controversy

Geniality is one of Smith's attractive traits. It is catching. It accounts in part for the love he inspires among his fellows. When he directs his wit or his satire against an opponent it is not poisoned by any stinging bitterness. He tries to understand another's point of view. When another differs honestly Smith respects him, especially if he be a fair fighter. The love and the admiration he won from his political foes is a matter of public record. His friendship for Ed. Merritt, the late Senator Brackett and for other leading Republicans, was deep and abiding.

Smith is slow to anger. He has a poise and a self-control of which his humor is a positively artistic expression. Anger he recognizes as undignified and humanly wasteful. Smith is seldom angry in a personal sense. Only a long attrition of unjust attacks reflecting upon his motives and unrelated to the merits of his policies would arouse his indignation. Even then he would ignore it unless he considered it important for the welfare of the State or for the vindication of principle.

Without entering here into a discussion of Mr. Hearst's motives, it should be noted that his papers opened up a fire of attack against Smith. These attacks were vitriolic even for Hearst. Every resource and every talent a millionaire newspaper publisher can buy were used against Smith. He

was pilloried in editorials. He was caricatured in cartoons. He was insincere; he was a boss-ridden politician; he was pictured as a friend of the Milk Trust Barons, who shook hands with their servant and greeted him with the insidious slogan: "You know me, Al!"

One of the ostensible reasons for this attack was the Governor's alleged neglect of the poor who were then complaining about the high price of milk. The price referred to was that charged by the large distributing companies.

The Governor's efforts to bring about the reduction in the price of milk were well known. That he was powerless to regulate the price of milk under existing law was also common knowledge. That the statutes bound him hand and foot and kept him from controlling the only department which could give him any information or co-operation in meeting the problem was a fact to which he constantly drew attention. The Department of Farms and Markets of the State was controlled by a Republican Legislature. Its personnel was not under the Governor's jurisdiction. Despite the Governor's efforts to obtain relief by the appointment of Fair Price Milk Committees, the flaring headlines in the Hearst papers continued. For months he was silent. His friends pressed him to reply. Their efforts were futile.

Then something snapped. It broke when Hearst accused Smith, in papers which circulated among his people in the tenements, of killing their babies by his subservience to the Milk Trust.

To charge him with the death of the children he loved and of bringing sorrow to the people from whom he sprang was more than he could bear. In addition to the unusual cares of his office in the troublous post-war period, he was at that time suffering intensely from the strain occasioned by the critical illness of his mother, whom he loved as only a widow's son can love, and only as a son whose thought of her was

ever his first concern. The Hearst attacks literally struck home, for in her delirium his mother was heard to say: "My son did not kill the babies."

Then he spoke. His ringing words reverberated throughout the country. He challenged Mr. Hearst to meet him face to face and make good his charges.

He invited the freest exposure of his every act both private and public. He challenged Hearst to debate the issue of milk and every other issue between them in an open meeting.

On October 29, 1919, a mass-meeting under the auspices of a representative citizens' committee was held in Carnegie Hall. The Governor attended. There he expected to debate with Mr. Hearst, who in a scurrilous communication refused to meet him.

Carnegie Hall was packed to the doors. The city was tense with excitement. Every wise politician knew that this meeting meant an irreparable break with Hearst, who had combined with Tammany Hall to elect the local administration. It meant that Al Smith had burnt his bridges behind him and that for the rest of his political career he determined to fight the influence of one of the richest of men wielded through the ownership of a chain of newspapers extending from New York to California.

Smith is too realistic a politician to underestimate the evil which the abuse of such power can do. He also realized that when money is pitted against private honor and public integrity, the right would in the long run prevail.

No meeting within the recollection of old New Yorkers was charged with so much dramatic dynamite.

Al Smith was always popular. Now he became a symbol of moral qualities that transcend mere partisan approval, and in every subsequent fight with Hearst the people of New York State showed where they stood in unprecedented majorities.

"I am going to ask," he began as he faced that audience in Carnegie Hall, "for your absolute silence and attention." He got them, for his words were arresting:

I feel that I am here tonight upon a mission as important not only to myself, but to this city, to this State and to this country, as I could possibly perform. Of course, I am alone. (A voice: "He hasn't got the nerve to face you, Al.") I don't know whether the chairman or the committee expected that I would be alone, but I knew that I would, and I felt that I would, because I know the man to whom I issued the challenge, and I know that he has not got a drop of good, clean, pure red blood in his whole body. And I know the color of his liver, and it is whiter, if that could be, than the driven snow.

The chairman did not read his letter of declination, and I do not intend to read it all because I have too much better material.

But I just want to pay my respects to certain passages in it. Running true to form, characteristic of the man and of the publications that he owns, his letter of refusal to the chairman of this committee is not a truthful one. At this state of the proceedings the only reason that he can put upon paper, over his own signature, why he believes I have betrayed my public trust, is that we have not got municipal ownership.

Why, the man is entirely lacking in any understanding of the situation. He doesn't spend any time in New York, to know what is going on here; he is in Palm Beach all winter, and in California all summer. He probably never read my message to the Legislature. He never read the special message that I sent in. He has never read a line of the speeches that I have made since my entry into public office, on this particular question. If he did, he couldn't possibly write that letter.

He said to the chairman, "You need keep no tickets for any friend of mine." I want to say to the chairman that if he kept tickets for friends of Hearst, he could keep them in his ear.

And with a great show of brightness that hit upon his mind on the moment, he advised the committee that they could hire Carnegie Hall on a long-term lease. Now, my answer to that is this: If he wants to criticize me or any other public official

in this country, honestly, fairly and justly, nobody will raise a finger against him; but if, on the other hand, he wants to vilify them, slander them and lie about them, it is probably well for the citizenship of this country and this city that they take a permanent lease upon this hall—not so much to provide a forum for the defense of our public men, but to promote the general public welfare; and he knows what I mean by that. So much for his answer.

In his morning edition of the *American* he has a picture of me (holding up copy of *American*) with a laboring man cartooned on one side, and a mother and her children on the other. The heading of it is, "Answer these people, Governor Smith." I want to say to this audience that I was anxious to bring him on this platform so that he could answer to these people. They need no answer from me, and any of them that are in doubt about it, before I am finished, I will make it my business to see that they need no answer from me. They need it from him. They need it from the man that is exploiting them. They need it from the man that is sowing in their minds and in their hearts the seeds of disorder and discontent, to suit his own selfish purposes.

Now, this afternoon I said to myself, "When I get on the stage to-night I will try and imagine I am a lawyer, and I will try and imagine that I have a case to make out before the jury; and I will have in mind that every jury, in a case of circumstantial evidence, is keen to know the motive. That establishes over fifty per cent of the case if you can show the motive." In order to show the motive of this attack upon me I propose to take this audience by the hand and walk them through my administration since the first of January up to to-night, and I will put in your minds as quickly as it can be done the motive for this attack upon me.

On the first of January, when I went into office, I appointed as my legal adviser, Judge Joseph A. Kellogg, of Glens Falls. In all of the State of New York a cleaner and abler man could not be found for that position, and when I went to him and asked him to accept it, he was reluctant about it. I asked him to do it for me, to help me, and he finally consented. At the

time of his appointment not a word was said by either the *American* or the *Journal*. On the other hand, the newspapers that circulate throughout central New York and know him well gave me the highest commendation for the selection that I was able to make for counsel.

On the ninth of January there was an acute situation in the city here because of a strike between the farmers on the one hand and the distributors of milk on the other. I was appealed to. Under the law of the State I had no power to command any man to do anything that I thought he ought to do, but I undertook to settle the strike. I sent for the representatives of the farmers on the one side, the representatives of the distributors on the other, and I asked some citizens to sit in and talk with them to the end that we might end the strike. In that I was successful, for the milk began to flow into New York, and the committee so arranged it that there was to be no increase in the price to the consumer. That is what happened on the ninth of January, and that is the committee that is so grossly and so gravely misrepresented in the Hearst newspapers as being a committe made up of the representatives of the trust.

How else could you settle a strike of that kind? How did the Federal government attempt to settle the harbor strike or the longshoremen's strike? Did they appoint doctors and lawyers on the committee, or college professors? Why, not at all. They appointed the representatives of the strikers. And that is exactly what I did, and that fact has been distorted and turned around until it is a mass of lies, not understandable to anybody, only to the man that concocts them, for he has the hidden motive and the hidden purpose in the back of his head. Everything went along all right until the twenty-fifth of March, when we had the parade of the Twenty-seventh Division. Before that parade, Mr. Hearst, through another party, not directly, but through another party, made a request of me that I denied. I denied it because I did not think, as Governor of this State, in honor I could do it. Through another party, Mr. Hearst asked me for an appointment for a friend of his. I made up my mind that the appointee should be a woman, to a State com-

mission, and I selected a woman from the western part of the State. And that disappointed him. Ten days after that—watch the circumstantial case, and follow me along with it now, while I put it all together and show you the motive—ten days after that, the first editorial appears in the New York *American*. It does not chastise me. It is a kindly editorial. It is one of those editorials of warning. It says, "The test of the Governor is now at hand. Will he fail?" It quotes a statement that I made upon the adjournment of the Legislature, criticizing them for failing to pass the Welfare bill that I recommended in my first annual message. And then it follows on by saying, "Those are nice words, Governor, but the people don't go by words; they go by deeds. Why did you appoint Judge Kellogg a Public Service Commissioner?" He was all right on the first of January, but after Mr. Hearst suffered his disappointment because he felt that he could not call upon me to do that which I did not think was right, he found fault with Kellogg and used that familiar expression of his, "A tool of the corporations," or something to that effect.

At the bottom of it his editorial writer wrote this: "The people hate a trimmer and a traitor, a backer and a filler, a temporizer and a compromiser. No Democrat has ever yet succeeded in that way."

Now, I hold that the man that wrote that had Hearst himself in his mind, because he fills that bill to a T. It cannot be made to apply to me because I have succeeded.

Now that, you know, was like saying, "Look out now, you have not been all right up to date; you know what we have got here; be careful of yourself." The warning was issued on the twenty-fifth of April, and it looked to me like the warning was paving the way for something else that was going to happen; because around that time it was whispered around that a judge of the Supreme Court, sitting in the Appellate Division, was about to resign, and the little warning was intended to let the Governor know that he must not slip up on that one. So accordingly, on the thirtieth of April, and before the resignation is sent to the Governor, I receive this letter:

> My Dear Governor: I understand that Supreme Court Justice Clarence J. Shearn has resigned his office, to take effect May the first. As one of the friends and admirers of Register James A. Donegan, may I not take the liberty of suggesting to you his name for consideration when this matter is before you for decision? James A. Donegan is the chairman of the Independence League Party, and the party associate of Justice Shearn, whom he succeeded as chairman of the League. He has been a resident of New York for many years and I believe you have known him personally for a long period. His qualifications are admirable; a well-known lawyer, of splendid character, sound judgment, personally popular among all classes, by virtue of his party affiliations, the logical successor to Justice Shearn.

That is the explanation of the candidate. The last part of the letter says, "In addition to this his appointment would bring to our party a strong and positive ally, who through his newspapers has a large and independent following in this city."

Now, that is signed by William F. Schneider, county clerk. In an interview in the New York *World*, the county clerk says that he did not speak to Mr. Hearst about it, that he did not speak to anybody about it, that he was animated by a feeling of generosity for his friend.

Now, we have been brought up more or less in the atmosphere of practical politics; I have. It has been a great asset to me; it has helped me wonderfully. Mr. Donegan is the register of this county, elected for a four-year term, nominated at the request, I am given to understand, of the Independence League Party. Mr. Schneider did not want to take him out of that position and leave that appointment for me to make, unless somebody in authority in that party said so.

Now, Mr. Schneider denies that his request came from Mr. Hearst. So far, so good. I have no quarrel with Mr. Schneider, but he is an elected constitutional officer in this county and he holds an important public office. Don't let him make that statement again, because if he does I will tell him the name of the

man that met him coming out of church last August in Belle Harbor and to whom he told that Mr. Hearst wanted him to come and see me about it. And he took a chance and wrote that letter; and with a great deal of feeling for me for fear something awful was going to happen to me, he expressed so much sorrow that "Al" did not use a little more judgment; even if I did not give Donegan that place, I might have given him the next one. Now, let us see. We are up as far as the thirtieth of April on the Schneider letter.

On the fifth of May Judge Shearn resigned. On the seventh day of May I appointed Robert L. Luce. Before I was elected, to audiences in this county, in Kings county and all over this State, I made the solemn promise that if I was elected I would be the Governor of this State, and *I* selected Robert L. Luce. The next day the attack opened. Watch the chain of circumstances being gradually linked together. The day after the appointment of Luce, the attack opened upon Luce and upon myself. Whisperings were about the Capitol in Albany that "Hearst has a man on the Governor's trail; there is somebody up here to watch everything that happens." Well, let's see how well that fellow watched it. On the tenth of May, two days later, there appears an attack against the Governor in the paper for appointing a man named Fluhrer a county judge in Orleans county. If I sat up all night and devoted the best thought that I could bring to my command, and looked all over the county of Orleans, it would be impossible for me to find a man better equipped, better trained, and who met with more popular general satisfaction in the appointment than the man that I appointed. But they were on his trail, and that appointment was found fault with.

It took him six days to find something else, and he actually found that I came down here to the Metropolitan Club, a club of wealthy men, and I went in and made a speech to them. I came there at the invitation of the Reconstruction Commission to see if it was possible to talk some money out of those wealthy fellows to build some houses in this city. That was what I came to the Metropolitan Club for. But the attack had to be continued, and the paper said, "It was asserted that the Governor

174 South Street, the House in Which Alfred E. Smith Was Born

came down to the Metropolitan Club to avoid a special session of the Legislature so that the State or the city would not put up the money to lend the builders."

Now, that is supposed to be fed out to intelligent people. The presumption is that the man with brains, or the woman with brains, is going to read that; and there isn't a schoolboy or schoolgirl in New York that doesn't know that the public money of this State or this city, under our Constitution, cannot be loaned to builders or to anybody else. It was well known that neither the city nor the State itself could build the buildings, that the Constitution limited the expenditure of public money to State or municipal purposes only. But they were hunting very hard for something.

Then on that same day, there was a great discovery made. The Governor removed Judge Gary from the head of the Prison Commission, a man of singular ability, a man of business training, a man who gave his best thought to the State—and the Governor removed him because he wanted to have his newly appointed friend spend all the money. The article was hardly written when word came down to the office, "Get that out of the paper as quick as you can. Gary went before a committee of the Legislature and asked to have his commission abolished." Wait till I see if I made any special note on that (referring to paper). No.

Now, everything was failing. The Governor was still running the State his own way, and doing what he thought was the right thing, and every attempted attack was lost to the public. It made no hit. So there was a little meeting, and the question was discussed as to what next to go at the Governor on. So they finally made their mind up that they would attack the Governor of the State because he refused to fix the price of milk in New York at a lower figure than the people were charging for it. The attack went on practically through the summer. There was a little cessation of it immediately before the designations were made for the county ticket, but the day after the designations were made it began with renewed force and renewed vigor, and "Smith was responsible for the starva-

tion of the children in New York, because he refused to reduce the price of milk." This story will be rightly and properly told before I get finished, and when it is told it will constitute in itself the gravest abuse of the power of the press that was ever wielded by a newspaper or by an individual in the history of this country.

Early in my remarks I said something about misleading the poor. I cannot think of a more contemptible man—my power of imagination fails me to bring into my mind's eye a more despicable man than the man that exploits the poor. Any man that leads you to believe that your lot in life is not all right, any man that conjures up for you a fancied grievance against your government or against the man at the head of it, to help himself, is breeding the seeds of anarchy and dissatisfaction more disastrous to the welfare of the community that it is used in than any other teaching that I can think of, because, at least, the wildest anarchist, the most extreme Socialist, the wildest radical that you can think of may at least be sincere in his own heart. He may think that it is right when he preaches it. But the man that preaches to the poor of this or of any other community discontent and dissatisfaction to help himself and to make good his side of the argument and to destroy, as he said himself he would, the Governor of the State, is a man as low and as mean as I can picture him. Throughout this whole campaign it was attempted to fix in the minds of the people that there existed some place in the statute law of this State the power on the part of the Governor to fix the price of milk, and in his desperation after the nomination on the county ticket, that was put into his paper in so many words, and he knows that it is not so. His lawyers know that it is not so, and I defy him—and he has the best legal advice in this city, because he never utters a word until it is well scrutinized by an array of lawyers to keep him away from libel suits—I defy him or his lawyers to challenge that cold, straightforward statement of mine, that no power exists in my hands or in the hands of any other agency of this government, to fix the price at which anybody can sell anything in this State, whether it

is milk or shoes or clothing or houses or anything else. Running all through this, by insinuation and, at times, in his desperation, by the direct declaration, the public have been given to believe that the Governor had some power of removal over the officials of the Department of Agriculture and the Department of Farms and Markets. He knows that I have not. Every one of his lawyers knows that I have not. Every man that writes on his newspapers knows that the Governor of the State has no power to remove any of the officials of the Department of Agriculture. He knows that they are all appointed by a Council of Farms and Markets, and he knows that the Council is elected by the Legislature, and in 1917 the agricultural, farming and market interests of this State, to the minutest detail, were removed away from the control of the Governor, in order that they may be a regency, as are the educational affairs of the State. But all through his articles he has given the insinuation that men in that department, unfit for office, could be removed by me, when he knew it to be not the fact. I will make a confession to you. I do not want to be too hard on him. It isn't in my heart to hurt anybody.

I didn't want him to come on this platform for any other reason except to show him that he is a liar.

Now, he flares out a headline that Smith appointed a representative of the milk trust to office. That is a lie. I never appointed the man whose name he mentioned in the paper in my life, and every appointment that is made by the Governor, even to a notary public, has to be recorded in a certain book that is public property in the Executive Chamber in Albany, and he can go up and look at that book. In a cold-blooded, deliberate way, he puts it on the front page of his paper that the Governor of the State appointed the attorney of the milk trust to a high important office, when no such thing happened. Neither was the man appointed by anybody appointed by me. What are the facts? That is Hearst's story, and here are the facts:

Immediately after the first of January the Superintendent of Prisons asked a committee of men and women to make a

survey of the prisons. He suggested to me that it would be a good thing, and I said, "Go ahead, if it will help the State and help the prison system, I am for it; you get a good committee." He appointed Adolph Lewisohn, of New York, a woman named Helen Hartley Jenkins, and the Episcopal Bishop of New York, who died a short time ago, and two other men whose names I do not know. I was informed afterwards that the lawyer spoken of was a friend of Mr. Lewisohn, the chairman of the committee appointed by Rattigan, and that Lewisohn asked him to sit in the preparation of some bills that are destined to better the conditions under which men have to live in the prisons of this State. Now, that is the fact.

He flared out in his headline something that I had to pay attention to, that the New York Central was in league with the milk trust to curb the men that did not join the League; and he gave the details of a station in Dutchess county where the New York Central Railroad refused to accept the milk. Immediately upon seeing that story I became concerned, because public service corporations like the New York Central are under strict regulation by the State, and discrimination against any shipper of any kind of a product is a violation of the Public Service Law; and I immediately sent for the district attorney of this county. The district attorney subpœnaed the men from up in Dutchess county, and after a thorough examination of the case I got a letter from the district attorney of which I will read but a few lines:

"The explanation made by Mr. Grinnell is a clear and satisfactory one, from which it would appear that the New York Central Railroad was not, nor was any of its representatives, a member of any conspiracy to prevent Mr. McArthur from shipping milk to this city."

The fact of the matter was that no milk came from this station in Duchess county to this city in thirteen years. Yet this man, in his newspaper, assailed the character of the leading citizens of this community, because they are interested in that great public service corporation, and leagued me up with them. Not a word of truth, not a syllable of truth in it.

He speaks constantly through his papers of a letter that I received from the Mayor, begging me to do something. Why, the Mayor never sent me a letter about it. I never received such a letter. The Mayor won't say he sent it to me.

There was a wonderfully great, flaring headline one day that the district attorney of this county was being interfered with by politicians, that public men in this county were standing in the way of prosecution for criminal acts by the milk distributors. Well, that is a rather serious situation. If there is any man, be he public or be he private, in this county or in any other county, who stands in the way of a criminal prosecution, he is an enemy to the county, he is an enemy to the State, and an enemy to the people. So I wanted to find out who he was, and I sent word to the district attorney, and the next morning I saw in all the rest of the newspapers a statement by the district attorney that he never uttered a word of it, and I think he remarked that he never saw a reporter from either the *American* or the *Journal* for the whole week before that. Is that the treatment to give to intelligent people—make them think that there are people in this city here, or in his county, standing in the way of the orderly processes of justice? What kind of a seed does that breed inside of your mind? What kind of a thought does that put into your heart? What kind of an idea does that give you of the great underlying structure of democracy, the purity of the courts, of the grand jury and of the judiciary generally? What difference does it make how much misrepresentation there is if there is a Governor that has got to be destroyed because he is not amenable to orders?

Another flare headline, "Why don't the Governor bring the Milk Trust into Court and make them show up their books?" Why, the answer to that is just this. We have in this State, as the distinguished dead Mayor of the city one time said, a government of laws, not men. I am not a czar, I am not a despot; I am just a plain ordinary man, picked out by a majority of the people in this State to administer the law as it is in the statute books. I have not got the power to bring anybody into court. I cannot even arrest you; a policeman can, but I can-

not. Absolutely ridiculous, but a play to the poor, and a play to the man that does not understand the orderly legal procedure of the State. The man that does that, making you think that he is your friend, is the greatest enemy that you can find.

Of course you all remember the harrowing details of all the babies that were dying in New York because the Governor did not reduce the price of milk. The fact is, and it is something for which we can be thankful to Almighty God, that the infant mortality in this State and in this city in the last six months has been lower than at any other time in the whole history of the State. That is the fact.

I think the most ridiculous headline I saw was, "The Governor Interferes with the Prosecution of the Trust." This is the fact: I sent down to the Criminal Courts building for Judge Swann and his assistant in the month of August, immediately after I impanelled the special grand jury to hear the criminal anarchy cases. I sent for Swann and I said, "Have you got any evidence against these distributors?" He said, "Yes." I said, "Go and bring it in before that special grand jury, or any other grand jury that you have got down there." He said, "I don't know whether the call is broad enough to comprehend milk. You called this grand jury into being for a certain specific purpose." "Well," I said, "wait until I tell you something, Judge. If the call is not broad enough, I will broaden it this afternoon; and I want to say this to you, I don't know whether I have that power or not, if I have I will do it, and if I haven't I know that I have got the power to impanel another one, I will give you another jury." Swann went down and presented the evidence against the distributors of milk in this county. I wrote to him to find out what was the result, and I just take a small extract from his letter to save time:

"I have presented all the evidence that I have been able to secure, but without direct evidence or a confession of guilt, I do not think the grand jury will indict."

Now, there again—just think of what that means, to have planted in the mind of a man or a woman that the Governor of

this State would interfere through the district attorney of any county in the prosecution of anybody that committed a criminal act. Nobody could say it, no reasonable, normal, sane, sensible person could advance it, and no decent newspaper would ever print it.

You read, of course, how I saved some food adulterers from going to jail. That has been flared day after day, a copy of a letter from a former member of the Legislature sent to me when I was Speaker of the Assembly—you remember reading it. Here are the facts: While I was Speaker of the Assembly, a former member sent me a letter and in the letter said that he or another member had received notice of a violation, the violation had not been committed by a woman, but by the man that sold the stuff to her. I never saw the letter. Why, a man that is Speaker of the Assembly of this State, that would have time to read the letters that come to him—it is a physical impossibility. The letter was taken by one of my secretaries or one of my clerks, and sent over to the Department of Agriculture, and I never knew anything of it, and that is the last he heard of it. The records show that the guilty party was convicted and paid the maximum fine. Now, that is the truth about it. What sensible person would attempt for a minute to put the impression in the minds of the people of this State that food adulterers, purveyors of impure food, were to be protected by anybody? But of course you have to have the Governor assassinated, and it had to be done.

Of all the misrepresentation, of all the newspaper misrepresentation of anything that I ever heard of, was brought to my attention in this very recent tirade against me, that I vetoed a bill in the interests of the big packing concerns, Cudahy, Wilson and Swift. The man that was testifying on the stand testified that the bill about which he was talking was vetoed in 1918, the year before I was Governor; and the New York *Evening Journal* cut and slashed at that man's testimony in such a way that it made that story read that I vetoed that bill. No such bill was ever presented to me, and no such bill passed the Legislature last year, and for the very good reason that, be-

tween the time that it was vetoed by my predecessor in office, the Attorney-General gave the Health Department an opinion to the effect that they had the right and the jurisdiction under the broad police power of the State to go into any storage warehouse, and they decided that they didn't need it.

Now what I want to ask is: Is a newspaper, is the force behind a newspaper that will do that, worthy to survive in a city that boasts throughout the United States that it is a believer in the great American spirit of fair play? (Cries of "No, No.")

There is one thing that I would like to have clear in the minds of the audience, because it is clear in my mind, and that is, that I invite fair, just and honest criticism of my administration, in its every detail. I will go a step further and say that I will be thankful, thankful to, and not resentful against, any individual or any newspaper in this State that will show me what is wrong with my administration, because it means so much to me that it be right. When I went to Albany I went there with the fixed determination in my mind that never again would anybody be able to raise their head up in this State and say that the man from lower New York that belonged to Tammany Hall could not run the State. And the strangest thing about it all that I want to call your attention to before it escapes my mind is the fact that nearly, I might say, every other newspaper in this State has spoken in commendation of my administration except the paper that belonged to the man that wanted to tell me what I ought to do.

But there is nothing remarkable about it, in the last analysis, nothing very remarkable about the assault upon me. Follow back the history of this man's newspapers since he came to this part of the country, and you will have to read out of his newspapers this remarkable fact: That in this great democracy, in this land of the free and in this home of the brave, there has never been a man elected to office yet that has not been tainted in some way. Is that right or is it wrong? (Cries: "Right.") That is not a severe statement to make, because that is the truth. If the Hearst newspapers were the text books for

the children of our schools, they would have to spell out of its every line that no man can be trusted in this country after he is put into public office; that no man thinks enough about it; no man has enough of regard for it; no man has enough of real Christian charity to do the thing right; no man that ever held great public office had enough of respect and regard for his mother and his wife and his children and his friend to be right in office. About that there can be no question, because no public man in this State, from Grover Cleveland right down to to-day has ever escaped this fellow. We all know that. The children on the street know it.

When the President of the United States returned from his speaking trip through the West, broken in health, after a long, hard siege standing at the White House, trying to keep this country headed in the right direction, giving the best that there was in him to America and what America stood for, expressing to this world in the greatest language that any man ever brought to his command the high ideals that inspired America—when he returned to the White House and lay upon his back sick in bed, this part of the country had the satisfaction of reading in the New York *Evening Journal* that he betrayed the best interests of America and turned her over to Europe for the presents that his wife got while they were abroad. Is there any doubt about that? What manner of man is it, and what manner of newspaper institution is it, in this country to-day that would plant that seed in the mind of anybody? Only to have it develop afterwards that the presents that were spelled into bribes for his betrayal of the country were about $250 worth of small trinkets that were given to him and her by the people that they met in the course of their travels through Europe.

I do not come here in my capacity alone as a citizen of your country. I come here to-night as the Governor of your State. I come here to tell you that there is a condition of unrest throughout this whole country and in this State. I was called out of bed at an early hour this morning because of striking and rioting and murder that was being committed in one of the up-State cities. We passed through a hard period. We passed

through the unnatural period of war. Every boy and every girl knows that Almighty God never put people together in nations to have them destroy each other. It is an unnatural consequence and an unnatural condition, and from it must naturally grow unnatural children. And that spirit of unrest is throughout this land to-day, but I am one of the men that have supreme confidence in the good sense, in the hard common sense and in the good judgment of the American people to be able to weather any kind of a storm. Labor unrest will cure itself. We will attend to all of our internal problems. No appeal to American patriotism and American devotion to this country was ever lost on any American's ears. But I come here to-night to say that the utterances of these newspapers make it very difficult for the Governor to do it. That is the problem. I cannot be expected to have the influence I ought to have in this State at this time. No more can the President of the United States expect to have the influence that he should have in the country at this time if a newspaper here in the populous city of New York is permitted to drag them down to serve the purposes of the owner of the paper.

After my speech at the Women's Democratic League, when I returned to Albany, and before I left New York I had received from every part of this country upwards of 5,000 letters commending me for the stand that I had taken. I have been unable to answer them. I will have to rely upon the statements being made in the press that it is impossible to answer all the letters that I received. Five thousand of them commending me; and I received one letter commending Hearst (Voice: "That's the odds") and let me read it to you:

"You want to complain about W. R. Hearst. I know that he is an anarchist, but he has one good thing, he exposes you grafters, all right. You don't need to complain; you know that you have sold the public and their babies to the milk trust; you know you got your share of the $5,000,000 they made in nine months. What the hell do you care about the public? You're just the same as that Judas Wilson; he sold the whole world to England and tyranny, and you sold the public to the milk trust.

But you got your reward for it. The other fellow is dying already, and you'll get yours."

No name signed to it, but it is *bona fide*.

A Voice—What would you expect?

Governor Smith—Well, I would not expect the name to be there. But there is the thing. Now, I would not have paid much attention to that letter, were it not for the fact that, as I read it over the second time, I find that it contains almost verbatim a number of headlines from the Hearst papers. Now, that is where that man got his idea, and that is where he got his inspiration, and that is his idea of this country and his treatment for the President or any other public official.

Now, the editor said something in his letter of declination about crooked politicians. He has that letter very carefully worded, inspected by a well enforced corps of lawyers; but the veiled inference in it is that I am a crooked politician. I will give him another chance. Sixteen years I have been in elected public life in this State. I defy him to mention a crooked act that I ever performed, in public or in private life.

Nobody that ever went to the Governor's office went there with a graver sense of the responsibility of that office than I did. What could there possibly be about me that I should be assailed in this reckless manner by this man? I have more reason probably than any man I will meet to-night to have a strong love and a strong devotion for this country, for this State and for this city. Look at what I have received at its hands: I left school and went to work before I was fifteen years of age. I worked hard, night and day; I worked honestly and conscientiously at every job that I was ever put at, until I went to the Governor's chair in Albany. What can it be? It has got to be jealousy, it has got to be envy, it has got to be hatred or it has to be something that nobody understands, that makes me come down here, into the city of New York, before this audience, and urge them to organize in this city to stay the danger that comes from these papers, to the end that the health, the welfare and the comfort of this people, of the people of this State, may be promoted, and we may get rid of this pestilence that walks in the darkness.

CHAPTER XLV

The Climax

The career and the personality of Smith had long since captured the imagination of his own State. By the year 1920 the significance of that career had sunk likewise into the consciousness of the people of the entire country. It was necessary only for it to be pictured by a man of warm heart and gifted tongue.

The New York delegates to the Democratic National Convention of 1920 determined to pay a compliment to their favorite son. That was why they placed him in nomination for the presidency. They had many another reason to do so. The conjuncture was ideal as material for drama and eloquence. New York had the man, Al Smith. She had the orator, Bourke Cockran. He loved Al Smith with the warmth of his Celtic nature. He was intimately associated with the Democracy of New York during most of Al Smith's career.

Cockran's baritone voice with its delicious brogue rolled through the convention hall like an organ tone.

"He has never lost a friend and never ceased to make new ones," Cockran said. "All of them, from his playmates on the sidewalks of the East Side to the statesmen he has moved among as Governor, call him 'Al Smith.'

"I venture to say he is the only man who could be called by such a diminutive without in any way debasing the dignity

of so high an office. Al Smith is no way different from the rest of us, and that is why we love him."

The significance of the career in justification of America as a land of business opportunity was not lost to Cockran. Here was a man whose rise from the humblest origin to one of the most exalted places in the nation, was "a living refutation of the Socialist's argument, that the poor man, the under dog, has no chance in our regime." Such a man gave the lie to the forces of anarchy noisily articulate at the time.

With the instinct of the orator, Cockran felt the pulse of the delegates. These men and women, however different as to types representative of the cross sections of the entire country, shared one common conviction. Under American institutions men are given a chance to show and to develop what is in them, and no rewards are closed if they are earned by their merit.

The argument for Smith was sinking deep into the hearts of the delegates. Just as Cockran was finishing his peroration, and pointing his finger to the chromo of Woodrow Wilson on the wall behind the speakers' platform, the band struck up *The Sidewalks of New York.*

> East Side, West Side,
> All about the town,
> Boys and girls together. . .

This homely melody expressive of the short and simple annals of the poor, was enough to strike the match. Before three lines of it were played by the band, the demonstration began. In five minutes the standards of Illinois and Pennsylvania were moving down the aisles in front of their yelling delegates. The New York delegation still refrained from giving vent to its feelings but when delegates from the other states rushed over to take up the New York standards, the New York delegation joined. Standard after standard was

lifted with their delegates marching through the aisles, singing old songs, the songs which the simpler folk of the city had sung thirty years ago. *Sweet Rosie O'Grady, After the Ball is Over, the Bowery,* lilty simple rhythms to which the children danced with the music of the hurdy-gurdy on the sidewalks of New York.

The demonstration lasted over twenty-five minutes. The seconding speech was made by Franklin Roosevelt, Smith's antithesis, a man of family, wealth and social position, a representative of the leisure class with a public conscience. It was a fitting contrast for a man who succeeded in public life in spite of his riches to express with directness and simple force his admiration and respect for the man who rose to the top in spite of his poverty.

As Harold Phelps Stokes, the well-known correspondent, vividly said in reporting the scene to the *Evening Post*:

"In the main, it was a rare tribute to Al Smith himself and to the kind of an American career that he stands for carrying with it a doubly rare and gratifying sense of atonement between classes supposed to be cleaving so wide apart in these latter days."

Bourke Cockran cherished one main ambition. He hoped to nominate Smith as a real contender in 1924, but in his book of life he could not finish the page. He died in harness at the age of sixty-eight, in the Sixty-seventh Congress in January, 1923.

CHAPTER XLVI

Address to the State Democratic Convention of 1924

After the 1924 session of the Legislature adjourned on April 10th, hundreds of bills were lying on the Governor's table. These he must consider and act upon during the thirty days provided by the constitution. The State Convention of his party was held in the City of Albany on April 15, 1924, to select delegates at large and their alternates to the National Democratic Convention to be held in New York City beginning June 24.

The keynote address was delivered by the veteran Democrat from Albany, D-Cady Herrick. Interested as they were in his severe arraignment of the Republican national administration, and his enunciation of Democratic policy, this portion of his speech engrossed their chief attention.

The names of various able, honest, courageous men will be presented to that convention for nomination to the high office of president. Let the delegates there present know that we, too, of this State have a man, not a self-seeker, who may be drafted for that higher honor. A man of the people, who, by his own efforts, and long continued, honest, splendid service, has won the confidence and esteem of the people of his own State, who have bestowed upon him its highest honors and dignities; twelve years in the legislative branch of the State, member of a constitutional convention, and twice Governor of the State of New York. Not a lawyer by profession, but who, by his long experience and native vigor of intellect, has acquired a profound knowledge of the construction and interpretation of

statutes and constitutions. A man who is a student and master of public affairs, who has the courage of his convictions. A man as clean as a hound's tooth. During a long public, aggressive, fighting career, well calculated to make enemies and provoke hostile criticism, the breath of suspicion upon either his personal or public integrity has never blown. A man who, if nominated, can be elected and render to the people of his country the same honest, intelligent, laborious, painstaking, courageous service that he has rendered to the people of his own State.

Ladies and gentlemen of the Convention, who does this description fit? Name him.

The enthusiasm of the delegates was real. There was no repetition of the previous one-hour demonstrations to which Democratic conventions were accustomed when Al Smith was nominated. There was no incidental music of the *Sidewalks of New York*. But there was genuine feeling and a deep echo of approval in the hearts of the delegates. Smith was the tie that bound the Democracy as no figure in the New York State since Samuel Tilden. There was no division between up-state and down-state Democrats on the Governor, no cleavage between independents and organization Democrats. The delegates were unanimous in offering Smith not merely as New York's favorite son to the Convention of 1924 but as the candidate for the country who if nominated could win.

The Governor decided early in 1918 that as long as he was in Albany, no other interest but that of the State of New York would distract his attention. In the past he humorously referred to some Governors he had known who after spending a year in Albany had a spy glass on the Dome at Washington.

Even two months before the national convention, Smith kept his resolve. He would countenance no organized movement to further his presidential aspirations. When he appeared before his Democratic comrades, his address dealt

chiefly with the problems of the State. Towards the close Smith struck a note so human in its appeal that the correspondents who described the scene, declared that many of the men and women in the convention were seen wiping away tears, welling up from moved hearts. His words were these:

I want to take this opportunity at the first Democratic gathering I have had a chance to speak at in a long while to thank very sincerely and from the bottom of my heart the Democratic members of both houses of the Legislature, the Democratic State officers elected in 1922 and the heads of the great department of the State government. They have so conducted their offices that when your delegates elected here today or selected in the Congressional districts at the primary, go into the national convention, they will be able to look every other Democrat in the United States squarely in the eye.

There is a record there that you will have abundant reason to be proud of, spelling it out, from beginning to end, it constitutes a record of unselfish devotion to the best interests of this State and of our people. You will have imposed upon you the duty of representing this State in the make-up of the National platform. Whatever else you do, insist on plain talk. The people of this country are worn out with this Court of Appeals language. So, what you want to say, say in understandable terms, say it so that the man on the street, the plain, ordinary man, can know what you promise to do; because if you intend to carry out the promise you don't have to be the least bit afraid of how explicit you make it. Make it definite. Make it concrete. And make it to the point; and get away from qualifications. That is a Democratic platform, the only kind that ought to come out from a Democratic convention.

I want to step out of my character as Governor and have a personal word with you. I heard the resolution that you passed. In fact, I read it, before it came up here.

It would be a difficult task for any man to stand before an audience of this kind and be able to adequately express the appreciation he would have to feel for the great compliment,

the great honor and the great distinction that comes to him to be spoken of as the choice of his party in the greatest State in the Union for the highest office in all the world.

If I were to tell you that I haven't heard anything on this particular subject for the last year, you wouldn't believe it, because it wouldn't be true. I have heard a great deal about it; but in the frankness that ought to exist among friends and comrades, together, let me say this to you: I have done absolutely nothing about it, either inside or outside of the State, and I do not intend to do anything about it. The man who would not have an ambition for that office would have a dead heart. But I stand exactly in the position that I stood in on the floor of the Constitutional Convention in 1915, when I said that the man who used one office and neglected it in order to climb to a higher one was not deserving of the one he had.

I am going to do nothing about it, because there is nothing I can do. In the first place, I haven't got the means to do it. In the second place, I haven't got the time to do it. For the next thirty days I will be just as busy as any man could possibly be in the consideration of the nine hundred odd bills left for my attention by the Legislature. Then, within a reasonably short time, after five solid months, without a vacation, I will have to turn my attention to the administrative details of some of the departments of government.

This work I propose to do, right up to the time the convention starts. If I fell down on this job, I would never forgive myself and I would not ask forgiveness from any one else. If the required number of delegates in the National Convention takes your view of it, I will be honored beyond the power of expression to lead the forces of my party in the next campaign.

In conclusion, I want to leave just one thought with you. If my nomination is brought about, and it results in a triumph for the party, you can say to every delegate that you meet at the convention in New York City, that I promised you in the Capital City of this State before God Almighty Himself that neither they nor you will ever have any cause to regret any confidence they or you see fit to repose in me.

Alfred E. Smith

By
Henry
Moskowitz

THOMAS
SELTZER

ALFRED E. SMITH

An American Career

BY

HENRY MOSKOWITZ